

State Water Resources Control Board

REVISED ON SEPTEMBER 14, 2023*
(REVISIONS SHOWN IN RED FONT)

NOTICE OF PROPOSED EMERGENCY RULEMAKING

Annual Waste Discharge Permit Fees

Amendments to Division 3 of Title 23 of the California Code of Regulations

Required Notice of Proposed Emergency Action

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Proposed Emergency Action

Water Code section 13260(f) requires the State Water Board to adopt emergency regulations revising and establishing fees to be deposited in the Waste Discharge Permit Fund in the State Treasury. Water Code section 13260(f)(1) requires the State Water Board to adjust the fee schedule each fiscal year to conform to the revenue levels set forth in the annual Budget Act. On September 19, 2023, the State Water Board will consider adopting emergency regulations that adjust waste discharge permit fees to conform to the revenue levels set forth in the Budget Act for Fiscal Year (FY)

*** The version of the proposed revisions to the water quality fee regulations that was published on September 11, 2023, inadvertently omitted the proposed revisions to section 2200.7 (cannabis cultivation) and inadvertently included a duplicate of the proposed revisions to section 2200, subdivision (c), (confined animal facilities) in its place. The duplicate of the proposed revisions to section 2200, subdivision (c) is deleted and replaced with the proposed revisions to section 2200.7, as shown below. In addition, the statement relating to cannabis cultivation on page 3, below, that “applicable surcharges will remain unchanged for FY 2023-24” was inadvertently included in the September 11, 2023 version of this notice. It has been deleted, as shown below.**

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2023-24. These changes will revise Title 23, Division 3, Chapter 9, Article 1, Sections 2200, 2200.1, 2200.6 and 2200.7 of the California Code of Regulations.

Proposed Text of Emergency Regulations

The proposed text of the emergency regulations is attached. The State Water Board is not required to provide any additional public notice prior to adopting revisions to the proposed emergency regulations.

Finding of Emergency (Gov. Code, § 11346.1, subd. (b))

The State Water Board has a mandatory legal duty to adopt emergency regulations revising the fees as necessary each fiscal year pursuant to Water Code section 13260(f). Water Code section 13260(f)(2) states that “[t]he adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations . . . shall remain in effect until revised by the State Water Board.”

Authority and Reference (Gov. Code, § 11346.5, subd. (a)(2))
Water Code section 13260(f).

Informative Digest (Gov. Code, § 11346.5, subd. (a)(3))

Under Water Code section 13260(d)(1)(A), any person discharging waste, or proposing to discharge waste, that could affect the quality of the waters of the state must pay an annual fee in accordance with the fee schedule adopted by the State Water Board.

The proposed emergency regulations will revise the fees for waste discharge permit holders for FY 2023-24 as follows:

Waste Discharge Requirement (WDR)

Increase fees by an average of 8.5 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2023-24.

- **Pretreatment Surcharge** – 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.

Land Disposal – Tipping and No Tipping

No fee increase is being proposed as the program is projected to generate sufficient revenue.

Water Quality Certification (WQC)

Increase fees an average 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

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** – 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)** – 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

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

Confined Animal Facilities (CAF)

Increase fees by an average of 6.2 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2023-24.

Agricultural (Ag) Lands

Increase fees by an average of 5.8 percent to all fee categories.

Cannabis Cultivation

Increase fees by an average of 5.0 percent to all fee categories. **All applicable surcharges will remain unchanged for FY 2023-24.**

Invoicing Schedule Language

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.

There is no comparable federal statute or regulation.

Other Matters Prescribed by Statute (Gov. Code, § 11346.5, subd. (a)(4))

No other matters prescribed by statute or regulation are applicable to the State Water Board.

Local Mandate (Gov. Code, § 11346.5, subd. (a)(5))

The proposed emergency regulations do not impose a mandate on local agencies or school districts because they do not mandate a new program or a higher level of service of an existing program. The fee schedule applies equally to public and private entities and is not unique to local government. No state reimbursement is required by part 7 (commencing with section 17500) of Division 4 of the Government Code.

Estimate of Cost or Savings (Gov. Code, § 11346.5, subd. (a)(6))

Under the proposed emergency regulations for this fiscal year, most local and state agencies will pay increased fees over last year. The amended fee schedule will result in a total estimated increase to state agencies of approximately \$196,290. There is no cost to any local agency or school district for which reimbursement is required or other nondiscretionary cost of savings imposed on local agencies. There is no cost or savings in federal funding to the state.

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

Section 2200. Annual Fee Schedules.

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. The fee shall be submitted for each waste discharge requirement order issued to that person.¹

(a) The annual fees for persons issued waste discharge requirements (WDRs), except as provided in subdivisions (a)(3), (a)(4), (b), and (c), shall be based on the discharge's threat to water quality (TTWQ) and complexity (CPLX) rating according to the following fee schedule, plus applicable surcharge(s).

¹ Federal facilities will generally not be invoiced for the portion of the annual fee that is attributable to the state board's ambient water monitoring programs. See *Massachusetts v. United States* (1978) 435 U.S. 444.

Threat to Water Quality (TTWQ)	Complexity (CPLX)	Discharge to Land or Surface Waters ²	Land Disposal ³ – Not Paying a Tipping Fee ⁴	Land Disposal ³ – Paying a Tipping Fee ⁵
1	A	\$180,398 <u>195,732</u>	\$76,703 ⁶	\$64,210 ⁶
1	B	\$113,934 <u>123,618</u>	\$61,951	\$51,860
1	C	\$61,476 <u>66,702</u>	\$39,826	\$33,340
2	A	\$41,063 <u>44,554</u>	\$33,187	\$27,783
2	B	\$24,687 <u>26,785</u>	\$26,552	\$22,226
2	C	\$18,512 <u>20,085</u>	\$19,914	\$16,670
3	A	\$14,590 <u>15,830</u>	\$13,275	\$11,114
3	B	\$7,770 <u>8,431</u>	\$9,957	\$8,333
3	C	\$3,453 <u>3,746</u>	\$4,424	\$3,705

² For this table, discharges to land or surface waters are those discharges of waste to land or surface waters not covered by NPDES permits that are regulated pursuant to Water Code Section 13263 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. It does not include discharge of dredge or fill material, discharges from agricultural lands, including irrigated lands, or discharge from animal feeding operations.

Dischargers covered by a WDR for municipal and domestic discharges with permitted flows of less than 50,000 gallons per day in categories 2-B, 2-C, 3-B and 3-C will receive a 50 percent fee discount. The design flow shall be used where no permitted flow is present. Municipal and domestic discharges receiving the discount are defined as discharges from facilities that treat domestic wastewater or a mixture of wastewater that is predominately domestic wastewater. Domestic wastewater consists of wastes from bathroom toilets, showers, and sinks from residential kitchens and residential clothes washing. It does not include discharges from food preparation and dish washing in restaurants or from commercial laundromats. Dischargers covered by a Landscape Irrigation General Permit issued by the state board will be assessed a fee associated with TTWQ/CPLX rating of 3B.

³ For this table, land disposal discharges are those discharges of waste to land that are regulated pursuant to Water Code Section 13263 that implement the requirements of CCR Title 27, Division 2, except Chapter 7, Subchapter 2, §22560-22565 (confined animal facilities). Examples include, but are not limited to, discharges associated with active and closed landfills, waste piles, surface impoundments, and mines.

⁴ For this table, Not Paying a Tipping Fee are those land disposal dischargers not subject to Public Resources Code (PRC) § 48000 et seq.

⁵ For this table, Paying a Tipping Fee are those land disposal dischargers subject to PRC § 48000 et seq.

⁶ A surcharge of \$12,000 will be added for Class I landfills. Class I landfills are those that, during the time they are, or were, in operation, are so classified by the regional board under 23 CCR Chapter 15, have WDRs that allow (or, for closed units, allowed) them to receive hazardous waste, and have a permit issued by the Department of Toxic Substances Control under 22 CCR Chapter 10, § 66270.1 et seq.

Public wastewater treatment facilities with approved pretreatment programs are subject to a surcharge of \$10,000. Facilities that are required to have a pretreatment program that are subject to both subdivision (a) and subdivision (b)(8) shall only pay a single annual \$10,000 surcharge. Agencies with multiple facilities under one approved pretreatment program shall pay a \$10,000 surcharge per program.

Oil and gas produced water storage and disposal facilities regulated by waste discharge requirements are subject to a surcharge per barrels of waste-water discharged in the prior 12 months according to the following schedule:

TTWQ & CPLX Rating	No Barrels	1 to 999,999 Barrels	1,000,000 or more Barrels
1A	\$600	\$1,000	\$50,000
1B	\$600	\$1,000	\$50,000
1C	\$600	\$1,000	\$50,000
2A	\$600	\$1,000	\$40,000
2B	\$600	\$1,000	\$30,000
2C	\$600	\$1,000	\$10,000
3A	\$600	\$1,000	\$4,000
3B	\$600	\$1,000	\$2,000
3C	\$600	\$600	\$600

(1) Threat to water quality (TTWQ)⁷ and complexity (CPLX) of the discharge is assigned by the regional board in accordance with the following definitions:

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.

⁷ In assigning a category for TTWQ, a regional board should consider duration, frequency, seasonality, and other factors that might limit the impact of the discharge.

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; any facility having numerous discharge points and groundwater monitoring; or any Class 1 waste management unit.

Category “B” – Any discharger not included in Category A that has physical, chemical, or biological treatment systems (except for septic systems with subsurface disposal), or any Class 2 or Class 3 waste management units.

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

(2) For dischargers covered under Statewide General WDRs for Sanitary Sewer Systems, the TTWQ and CPLX designations are assigned based on the population served by the sanitary sewer system. The table below describes the correlation between population served and TTWQ and CPLX designations to determine the appropriate annual fee:

Population Served⁸	Threat and Complexity Designation
Less than 50,000	3C
50,000 or more	2C

⁸ Assumes 2.5 persons per equivalent dwelling unit (EDU).

~~(a)~~(3)(A) For dischargers covered under Statewide General WDRs for discharges of winery process water, the annual fees shall be based on the following schedule:

Facility Process Water Flow (gal/yr)	Fee
10,000 to 30,000	\$779 <u>845</u>
>30,000 to 100,000	<u>\$1,038</u> <u>1,126</u>
>100,000 to 300,000	<u>\$1,246</u> <u>1,351</u>
>300,000 to 600,000	<u>\$2,076</u> <u>2,252</u>
>600,000 to 1 million	<u>\$3,114</u> <u>3,379</u>
>1 million to 3 million	<u>\$7,266</u> <u>7,884</u>
>3 million to 7 million	<u>\$13,494</u> <u>14,641</u>
>7 million to 15 million	<u>\$19,722</u> <u>21,398</u>

(B) Dischargers enrolled in an approved Local Agency Oversight program will receive a 50 percent fee reduction.

(C) Dischargers enrolled in an approved sustainability program will receive a 10 percent fee reduction.

(D) Dischargers enrolled in an approved Local Agency Oversight program and an approved sustainability program will receive a 50 percent reduction of the annual fee that results from the application of a 10 percent fee reduction.

(E) Dischargers with facility process water flows of less than 10,000 gallons per year that are directed by the state board or a regional board to enroll under the Statewide General WDRs for discharges of winery process water shall pay the fee applicable to dischargers with 10,000 to 30,000 gallons per year.

(F) Dischargers with facility process water flows of 10,000 to 30,000 gallons per year that are directed by the state board or a regional board to enroll as a Tier 2 facility under the Statewide General WDRs for discharges of winery process water shall pay the fee applicable to dischargers with >30,000 to 100,000 gallons per year.

(4) The fees for discharges of dredge and fill material shall be as follows.⁹

Standard Fee:¹⁰

Discharge Category	Application Fee¹¹	Project Fee	Annual Fee¹²
(A) Fill and Excavation¹³ Discharges Discharge area expressed in acres rounded to two decimal places (0.01 acre)	<u>\$2,7342,985</u>	Impact area in acres x <u>\$24,36626,608</u> , minus application fee, up to a maximum of <u>\$237,190259,011</u> . If this amount is \$0 or less, then no project fee is required.	<u>\$2,2972,509</u> for first five fiscal years following the effective date of the order, then <u>\$365399</u> beginning with the sixth fiscal year until the Notice of Completion is issued to discharger.

⁹ Fees shall be based on the sum of temporary and permanent impact amounts to be authorized by the order. Impacts include both the excavation and fill area and the dredging area. If water quality certification is issued in conjunction with dredge or fill WDRs or issued for a discharge regulated under preexisting WDRs for the same project, the project will be assessed a single fee derived from this dredge and fill fee schedule. Discharges requiring certification and regulated under a federal permit or license other than a US Army Corp of Engineers Clean Water Act Section 404 permit or a Federal Energy Regulatory Commission License shall be assessed a fee determined from Section 2200(a).

¹⁰ Fees shall be based on the sum of project impacts. Projects that include both category (A) and category (B) discharges shall be subject to the category (A) application and project fees. A single annual fee shall be assessed based on the higher of the applicable annual fee categories.

¹¹ Dischargers shall pay a one-time application fee and the project fee, if a project fee is required, for each project at the time that the application or report of waste discharge is submitted. Application and project fees shall be determined according to the fee schedule in effect on the date of application submittal.

¹² Consistent with Section 2200.2, the sum of the application fee and the project fee shall serve as the first annual fee. If the submittal of this first annual fee does not coincide with the current fiscal year billing cycle, then the next, and only the next, fiscal year billing shall be adjusted to account for the payment of the application fee. The annual fee for category (B) dredging discharges will be calculated using the annual dredge volume authorized in the applicable Order. Annual fee invoices are based on the fee schedule in effect for the fiscal year in which the invoice is issued.

¹³ "Excavation" refers to removing sediment or soil in shallow waters or under no-flow conditions, typically for purposes other than navigation. Examples include, but are not limited to, trenching for utility lines; other earthwork preliminary to discharge; removing sediment to increase channel capacity; and other flood control and drainage maintenance activities (e.g., debris removal, vegetation management and removal, detention basin maintenance and erosion control of slopes along open channels and other drainage facilities).

Discharge Category	Application Fee¹¹	Project Fee	Annual Fee¹²
(B) Dredging¹⁴ Discharges (except Category C activities see (C) below) Dredge volume expressed in cubic yards.	<u>\$2,7342,985</u>	N/A	Annual dredge volume in cubic yards x \$0. 60653 , up to a project maximum of <u>\$237,190259,011.</u> The minimum annual fee is <u>\$2,7342,985.</u>

Special/Flat Fee:¹⁵

Discharge Category	Application Fee	Annual Fee
(C) Sand Mining, In-Stream Gravel Mining and Beach Nourishment Discharges Aggregate extraction in surface waters where source material is free of pollutants and the dredging operation will not violate any basin plan provisions and beach nourishment projects.	<u>\$2,7342,985</u>	<u>\$942996</u>
(D) Ecological Restoration and Enhancement Projects The project meets the definition of an “Ecological Restoration and Enhancement Project” set forth in the State Wetland Definition and Procedures for Discharges of Dredged or Fill Materials to Waters of the State, adopted by the State Water Board on April 2, 2019. ¹⁶	<u>\$729796</u>	<u>\$365399</u>

¹⁴ “Dredging” refers to removing sediment or aquatic vegetation, typically in deeper water for navigation purposes. For fee purposes, this fee category includes aggregate extraction within stream channels, where the substrate is composed of coarse sediment (e.g., gravel) and is replenished by normal winter flows (e.g., point bars).

¹⁵ To qualify for a special/flat fee category, the whole of a project must meet the fee category description (i.e., all project discharges are limited to those defined by the fee category).

¹⁶ Ecological Restoration and Enhancement Project means the project is voluntarily undertaken for the purpose of assisting or controlling the recovery of an aquatic ecosystem that has been degraded, damaged or destroyed to restore some measure of its natural condition and to enhance the beneficial uses, including potential beneficial uses of water. Such projects are undertaken:

1) in accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the real property interest owner or the entity conducting the habitat restoration or enhancement work and:

a. a federal or state resource agency, including, but not limited to, the U.S. Fish and Wildlife Service, Natural Resources Conservation Service, Farm Service Agency, National Marine

<p>(E) Low Impact Discharges</p> <p>Projects may be classified as low impact discharges if the project meets all of the following criteria:</p> <ol style="list-style-type: none"> 1. The discharge size is less than all of the following: (a) for fill, 0.1 acre, and 300 linear feet, and (b) for dredging, 25 cubic yards. 2. The discharger demonstrates that: (a) all practicable measures will be taken to avoid impacts; (b) where unavoidable temporary impacts take place, waters and vegetation will be restored to pre-project conditions as quickly as practicable; and (c) where unavoidable permanent impacts take place, there will be no net loss of wetland, riparian area, or headwater functions, including onsite habitat, habitat connectivity, floodwater retention, and pollutant removal. 3. The discharge will not do any of the following: (a) directly or indirectly destabilize a bed of a receiving water; (b) contribute to significant cumulative effects; (c) cause pollution, contamination, or nuisance; (d) adversely affect candidate, threatened, or endangered species; (e) degrade water quality or beneficial uses; (f) be toxic; or (g) include “hazardous” or “designated” material. 	<p><u>\$2,7342,985</u></p>	<p><u>\$365399</u></p>
<p>(F) Emergency Projects Authorized by a Water Board General Order</p>	<p><u>\$2,7342,985</u></p>	<p><u>\$365399</u></p>

Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Forest Service, U.S. Bureau of Land Management, California Department of Fish and Wildlife, California Wildlife Conservation Board, California Coastal Conservancy or the Delta Conservancy;

- b. a local agency with the primary function of managing land or water for wetland habitat purposes; or
- c. a non-governmental conservation organization; or

2) by a state or federal agency that is statutorily tasked with natural resource management.

These projects do not include the conversion of a stream or natural wetland to uplands or stream channelization. It is recognized that Ecological Restoration and Enhancement Projects may require ongoing maintenance or management to maximize fish, wildlife, habitat, or other ecological benefits, or filling gullied stream channels and similar rehabilitative activities to re-establish stream and meadow hydrology. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during rehabilitation activities are not considered a conversion to another aquatic habitat type.

These projects also do not include actions required under a Water Board Order for mitigation, actions to service required mitigation, or actions undertaken for the primary purpose of land development.

<p>(G) Amended Orders¹⁷ Amendments of WDRs or water quality certifications previously issued.</p> <p>(1) All category (D) Ecological Restoration and Enhancement Projects, regardless of amendment type.</p> <p>(2) Administrative amendments including, but not limited to, ownership changes, typographic edits, or time extensions that do not result in a temporal loss of resource function. Amendments in this category require no technical analysis or additional compensatory mitigation.</p> <p>(3) Amendment results in changes(s) in impact character, location, or volume of the discharge; or a time extension that results in a temporal loss of resource function, according to the following criteria:</p> <ul style="list-style-type: none"> • Amendment increases the active certification's impact quantity by less than 50 percent, and • Amendment does not require a change to the mitigated aquatic resource type. <p>(4) Amendment requires a supplemental CEQA analysis, or Amendment results in a change(s) in impact character, location, or volume of the discharge, or a time extension that results in a temporal loss of resource function, according to the following criteria:</p> <ul style="list-style-type: none"> • Amendment increases the active certification's impact quantity by more than 50 percent, or • Amendment requires a change to the mitigated aquatic resource type. 	<p>(1) No fee required</p> <p>(2) No fee required</p> <p>(3) Additional standard fee assessed per increased amount of discharge(s). The minimum fee is <u>\$2,7342,985</u>.</p> <p>(4) New standard fee assessed per new project discharge total. The minimum fee is <u>\$2,7342,985</u>.</p>	<p>Annual fee applicable per discharge category</p>
<p>(H) Wildfire Mitigation by Electrical Corporations, Electrical Utilities, and Electrical Cooperatives Dredge or fill activities conducted by electrical corporations, electrical utilities, and electrical cooperatives pursuant to a wildfire mitigation plan prepared in accordance with Public Utilities Code, section 8386(b) or section 8387(b)(1). This annual fee covers all dredge or fill activities conducted by the electrical corporations, electrical utilities, and electrical cooperatives pursuant to a wildfire mitigation plan, and is in lieu of the project-specific dredge or fill fees in section 2200(a)(3)(A)-(G) for dredge or fill activities conducted pursuant to a wildfire mitigation plan.</p>	<p>N/A</p>	<p>\$40.00 per mile of overhead electrical lines identified as high risk or high threat in the wildfire mitigation plan.</p>

¹⁷ Dischargers that have met the project fee cap will be assessed the minimum fee for each amendment of previously-issued WDR or water quality certification.

(b) The annual fees for persons issued NPDES permits shall be based on the following schedules, plus any applicable surcharge(s).

(1)(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 dischargers 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 United States Census. Public entities other than cities or counties (Non-Traditional Small MS4s¹⁸), shall pay an annual fee according to the following schedule, based on the average daily population¹⁹ using the entities' facilities, unless otherwise provided in the schedule. Flood control districts or other special districts named as co-permittees to MS4 permits and school districts, serving students between kindergarten and fourteenth grade, shall not pay an annual fee if the city or county within whose jurisdiction the district lies oversees the district's storm water compliance and pays an annual fee.

**ANNUAL FEE SCHEDULE FOR AREAWIDE MUNICIPAL STORM WATER
SEWER SYSTEM PERMITS AND CO-PERMITTEES**

Population	Fee
Equal to or greater than 250,000	\$70,667
200,000 to 249,999	\$61,833
150,000 to 199,999	\$53,352
100,000 to 149,999	\$44,169
75,000 to 99,999	\$35,333
50,000 to 74,999	\$26,498
25,000 to 49,999	\$17,666
10,000 to 24,999	\$10,602
1,000 to 9,999	\$7,067
Less than 1,000 population	\$3,535
Statewide Permit Holders	\$282,664
High Speed Rail Authority	\$165,739

(B) Dischargers applying for the Small MS4 Waiver of a General Permit to Discharge Storm Water Associated with Small Municipal Activity issued by the state board shall pay an application fee of \$200.

¹⁸ Non-Traditional Small MS4s are facilities that have systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. (40 C.F.R. § 122.26(b)(16)(iii)).

¹⁹ Total daily population must include resident and commuter populations. For public entities other than cities or counties, total daily population must include resident population and non-residents regularly employed in the areas served by the public entity.

(2) Any entity or entities submitting a watershed improvement plan to the regional board for review pursuant to Section 16102 of the Water Code shall reimburse the regional board for its costs²⁰ to review and oversee the implementation of the plan, which shall be calculated using a rate of \$185.~~00~~ per hour.

(3) Facilities that discharge storm water associated with industrial activities that are regulated by a state board or regional board general NPDES storm water permit shall pay an annual fee ~~of \$1,738.~~ **based on the total number of acres of industrial activities and materials exposed to storm water as follows:**

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

An amount equal to the fee prescribed shall be submitted with the discharger's Notice of Intent (NOI) to be regulated under ~~athe~~ general NPDES permit and will serve as the first annual fee. For the purposes of this section, an NOI is considered to be a report of waste discharge.

(4)(A) Storm water discharges associated with construction activities that are regulated by a general NPDES storm water permit other than those covered under (b)(5), including those issued by a regional board, shall pay an annual fee of \$496 plus \$52 per acre (rounded to the nearest whole acre and dollar amount), to a maximum fee of \$10,896, based on the total acreage to be disturbed during the life of the project as listed on the NOI. An amount equal to the fee prescribed shall be submitted with the discharger's NOI to be regulated under ~~athe~~ general NPDES permit and will serve as the first annual fee. **If the total acreage to be disturbed is increased by a Change of Information (COI) submitted to the Water Boards, the per acre fee for the additional acreage shall be submitted with the COI.** For the purposes of this section, an NOI is considered to be a report of waste discharge.

(B) Stormwater discharges associated with Executive Order N-73-20 requesting statewide programmatic General Permit coverage for multiple non-contiguous linear underground and overhead broadband projects, shall pay an annual fee of \$10,000 plus \$52 per acre (rounded to the nearest whole acre and dollar amount) based on the total acreage to be disturbed during the life of the project as listed on the NOI. An amount equal to the fee prescribed shall be submitted with the discharger's NOI to be regulated under ~~athe~~ general NPDES permit and will serve as the first annual fee. For the purposes of this section, an NOI is considered to be a report of waste discharge.

(C) Stormwater discharges requesting programmatic General Permit coverage for multiple non-contiguous linear underground and overhead projects within a single Regional Water Board jurisdiction, shall pay an annual fee of \$10,896.~~00~~ per NOI. An

²⁰ These costs include labor, state board and regional board administrative costs, and overhead costs.

amount equal to the fee prescribed shall be submitted with the discharger's NOI to be regulated under athe general NPDES permit and will serve as the first annual fee. For the purposes of this section, an NOI is considered to be a report of waste discharge.

(D) Dischargers applying for the Small Construction Rainfall Erosivity Waiver of a General Permit to Discharge Storm Water Associated with Construction Activity issued by the state board shall pay an application fee of \$200.

(5) Discharges associated with mosquito and vector control activities²¹ that are regulated by an individual or general NPDES permit adopted specifically for these purposes, including those issued by a regional board, shall pay a fee of \$250. Dischargers filing an application for a mosquito and vector control permit shall pay a fee of \$250. The fee shall be paid each time an application for initial certification or renewal of certification is submitted. Mosquito and vector control fees are not subject to ambient water monitoring surcharges.

(6) Planned and emergency discharges from community water systems that are regulated by a general NPDES permit adopted specifically for this purpose shall pay an application fee and subsequent annual fees (if applicable) based on the number of service connections for the public water system in accordance with the following schedule. The application fee shall be submitted with the discharger's NOI to be regulated by the general NPDES permit. For purposes of this section, an NOI is considered to be a report of waste discharge.

Dischargers with a Single System

Service Connections	Application Fee	Annual Fee
15 – 999	<u>\$458,173</u>	No Annual Fee
1,000 – 9,999	<u>\$794,868</u>	<u>\$794,868</u>
10,000+ <u>or more</u>	<u>\$3,2743,576</u>	<u>\$3,2743,576</u>
Transmission System or Water Wholesaler	<u>\$3,2743,576</u>	<u>\$3,2743,576</u>

²¹ A mosquito and vector control activity involves discharge of pesticides into a designated area for the maintenance and control of mosquito larva for the protection of public health from the outbreak of lethal diseases. A mosquito and vector control agency discharges pesticides into surface waters for the control of mosquito larva.

Dischargers with Multiple Systems

Total Number of Service Connections	Application Fee	Annual Fee ²²
15 – 999	\$158,173	No Annual Fee
1,000 – 9,999	\$794,868	\$794,868 per Primary System fee plus \$158,173 per Secondary System
10,000+ <u>or more</u>	\$3,274,576	\$3,274,576 per Primary System fee plus \$158,173 per Secondary System
Transmission System or Water Wholesaler System	\$3,274,576	\$3,274,576 per Primary System fee plus \$158,173 per Secondary System

(7) Seawater desalination facilities that have submitted a request for a determination of consistency with California Water Code section 13142.5(b) are subject to an annual fee according to the following fee schedule until a determination is made, with a maximum annual fee of ~~\$254,643,278,070~~:

Fee Basis ²³	Base Fee	Proposed Intake Volume Multiplier
Subsurface Only	\$76,393,83,421	\$1,283,1,401 per mgd
Surface, Combined Surface and Subsurface, or Alternative Intake Technology	\$152,786,166,842	\$1,283,1,401 per mgd

(8) Discharges from public wastewater treatment facilities that are regulated by a general NPDES permit adopted specifically for this purpose and all other NPDES permitted discharges, except as provided in (b)(9), (b)(10), and (c), shall pay a fee according to the following formula:

Fee equals ~~\$3,274,576~~ plus ~~5,7916,323~~ multiplied by the permitted flow, in mgd, with a maximum fee of ~~\$818,779,894,107~~ plus any applicable surcharge(s).

²² All Transmission Systems and Water Wholesaler Systems are Primary Systems. If the Discharger does not have a Transmission System or a Water Wholesaler System, the Discharger's individual water system with the highest number of service connections will be designated as the Primary System. All systems that are not Primary Systems are designated as Secondary Systems.

²³ Fee shall be based on the intake type as defined in the Water Quality Control Plan for Ocean Waters of California Chapter III.M.2.d.(1)(a).

If there is no permitted effluent flow specified, the fee shall be based on the design flow of the facility.

NPDES permitted industrial discharges²⁴ with a threat/complexity²⁵ rating of 1A, 1B, or 1C are subject to a surcharge as follows:

Threat/Complexity Rating 1A - \$15,000

Threat/Complexity Rating 1B - \$10,000

Threat/Complexity Rating 1C - \$5,000

Public wastewater treatment facilities with approved pretreatment programs are subject to a surcharge of \$10,000. **Facilities that are required to have a pretreatment program that are subject to both subdivision (a) and subdivision (b)(8) shall only pay a single annual \$10,000 surcharge.** Agencies with multiple facilities under one approved pretreatment program shall pay a \$10,000 surcharge per program.

(9)(A) Flow for wet weather municipal facilities²⁶ will be based on the previous five years' actual monthly average flow,²⁷ as of the date the permit is issued.

(B) Notwithstanding (9)(A), the minimum annual fee for wet weather municipal facilities shall be \$20,000.

²⁴ NPDES permitted industrial discharger(s) means those industries identified in the Standard Industrial Classification Manual, Bureau of Budget, 1967, as amended and supplemented, under the category "Division D-Manufacturing" and such other classes of significant waste producers as, by regulation, the U.S. EPA Administrator deems appropriate. (33 USC Sec. 1362).

²⁵ Threat/complexity categories are listed under (a)(1) of this document.

²⁶ Wet weather municipal facilities are intermittently operated facilities that are designated specifically to handle flows during wet weather conditions.

²⁷ The actual monthly average flow is defined as the average of the flows during each of the months that the discharge occurred during the previous five-year period.

(10) All other general NPDES permits and de minimis discharges²⁸ that are regulated by an individual or general NPDES permit, including those issued by a regional board, shall pay a fee as follows:

Category 1 – Discharges that require treatment systems to meet priority toxic pollutant limits and that could impair beneficial uses if limits are violated:

\$18,863,20,598

Category 2 – Discharges that require treatment systems to meet non-priority pollutant limits, but are not expected to impair beneficial uses if limits are violated. Examples of non-priority pollutants include, but are not limited to, nutrients, inorganic compounds, pH, and temperature: **\$11,400,12,448**

Category 3 – Discharges that require minimal or no treatment systems to meet limits and pose no significant threat to water quality: **\$3,274,3,576**

Category 4 – Discharges that require minimal or no treatment systems to meet limits and are authorized by the Regional Water Board to augment ambient streamflow conditions to support aquatic organisms during times of low streamflows where conditions threaten survival of aquatic organisms:

\$250,273

²⁸ De minimis discharge activities include, but are not limited to, the following: aquaculture activities (as defined in Chapter 40, Section 122.25(b) of the Code of Federal Regulations) defined as managed water areas that use discharges of pollutants into that designated area for maintenance or reproduction of harvestable freshwater, estuarine, or marine plants or animals including fish hatcheries; geothermal facilities that utilize, extract, or produce energy from geothermal fluids for heating, generating power, or other beneficial uses, and discharge geothermal fluids to surface waters; aquatic pesticide applications; evaporative condensate; swimming and landscape pool drainage; discharges from fire hydrant testing or flushing; discharges resulting from construction dewatering; discharges associated with supply well installation, development, test pumping, and purging; discharges resulting from the maintenance of uncontaminated water supply wells, pipelines, tanks, etc.; discharges resulting from hydrostatic testing of water supply vessels, pipelines, tanks, etc.; discharges resulting from the disinfection of water supply pipelines, tanks, reservoirs, etc.; discharges from water supply systems resulting from system failures, pressure releases, etc.; discharges of non-contact cooling water, not including steam/electric power plants; discharges resulting from diverted stream flows; water treatment plant discharges; and other similar types of wastes that have low pollutant concentrations and are not likely to cause or have a reasonable potential to cause or contribute to an adverse impact on the beneficial uses of receiving waters yet technically must be regulated under an NPDES permit.

(c) The annual fees for waste discharge requirements and waivers of waste discharge requirements for discharges from confined animal facilities shall be based on the following schedules. If a facility contains animals that fit multiple fee categories, the fee will be based on the number of animals in the category that results in the highest fee.

Dairies – Mature Dairy Cattle or Water Buffalo

Number of Animals	Fee
3,000 or more	<u>\$18,767,930</u>
1,500 to 2,999	<u>\$11,728,456</u>
700 to 1,499	<u>\$5,629,978</u>
300 to 699	<u>\$2,815,989</u>
150 to 299	<u>\$1,408,495</u>
50 to 149	<u>\$704,748</u>
0 to 49	\$0

Feedlots – Cattle or Cow/Calf Pairs

Number of Animals	Fee
100,000 or more	<u>\$14,077,495</u>
10,000 to 99,999	<u>\$7,037,474</u>
5,000 to 9,999	<u>\$3,752,984</u>
1,000 to 4,999	<u>\$1,876,993</u>
100 to 999	<u>\$939,998</u>
0 to 99	\$0

Feedlots – Calves

Number of Animals	Fee
10,000 or more	<u>\$7,037,474</u>
5,000 to 9,999	<u>\$3,752,984</u>
1,000 to 4,999	<u>\$1,876,993</u>
300 to 999	<u>\$939,998</u>
0 to 299	\$0

Feedlots – Heifers

Number of Animals	Fee
10,000 or more	<u>\$14,077,495</u>
5,000 to 9,999	<u>\$7,037,474</u>
1,000 to 4,999	<u>\$3,752,984</u>
300 to 999	<u>\$1,876,993</u>
137 to 299	<u>\$939,998</u>
0 to 136	\$0

Feedlots – Auction Yards

Number of Animals	Fee
1,000 or more	<u>\$3,752,984</u>
300 to 999	<u>\$1,876,993</u>
100 to 299	<u>\$939,998</u>
0 to 99	\$0

Dairies – Goat Dairies

Number of Animals	Fee
1,000 or more	<u>\$1,876,993</u>
550 to 999	<u>\$939,998</u>
0 to 549	\$0

Hogs – Swine (≥ 55 Pounds)

Number of Animals	Fee
5,000 or more	<u>\$7,037,474</u>
2,500 to 4,999	<u>\$3,752,984</u>
750 to 2,499	<u>\$1,876,993</u>
150 to 749	<u>\$939,998</u>
0 to 149	\$0

Hogs – Swine (< 55 Pounds)

Number of Animals	Fee
20,000 or more	<u>\$7,037,474</u>
10,000 to 19,999	<u>\$3,752,984</u>
3,000 to 9,999	<u>\$1,876,993</u>
300 to 2,999	<u>\$939,998</u>
0 to 299	\$0

Horses

Number of Animals	Fee
500 or more	<u>\$3,752,984</u>
150 to 499	<u>\$1,876,993</u>
75 to 149	<u>\$939,998</u>
0 to 74	\$0

Sheep or Lambs

Number of Animals	Fee
10,000 or more	<u>\$3,752,984</u>
3,000 to 9,999	<u>\$1,876,993</u>
550 to 2,999	<u>\$939,998</u>
0 to 549	\$0

Poultry

Number of Animal Equivalent Units (AEU)	Discharges with Low Threat to Water Quality ²⁹	All Other Discharges
2000+ or more	\$3,2863,489	\$9,3829,964
700 - 1,999	\$2,3462,492	\$4,6944,985
300 - 699	\$1,6421,744	\$3,5203,738
10 - 299	\$939998	\$1,8761,993
2 - 9	\$470499	\$939998
0 - 1	\$0	\$0

Animal Count to Animal Equivalent Unit (AEU) Conversion Matrix

Animal Type	AEU Multiplier	Number of Animals per AEU ³⁰
Turkey	0.0150000	67
Duck	0.0080000	125
Chicken – Broiler	0.0050000	200
Chicken – Layer	0.0040000	250
Guinea Fowl	0.0035000	286
Pheasant	0.0027500	364
Pullet	0.0024000	417
Squab	0.0015000	667
Chukar	0.0012500	800
Quail (Japanese)	0.0003750	2,667
Hatchery Chick (day old)	0.0000938	10,661

(1) Facilities that are certified under a Quality Assurance Program approved by the state board or under a County regulatory program approved by the appropriate regional board, will receive a 50 percent fee reduction. Any facility that is issued a notice of violation by a regional board for an off-property discharge shall not be eligible to receive this fee reduction for a minimum of one billing cycle, and for all subsequent billing cycles until recertification and all corrective actions are complete as determined by the regional board.

(2) Facilities that pose no potential to discharge, as determined by a regional board, shall pay a fee of \$200. The fee shall be paid each time an application for initial certification or renewal of certification is submitted.

(3) Facilities that are required to submit a report of waste discharge (ROWD) while the facility is under construction and remains so subsequent to the billing cycle will have the annual fee waived until the facility is in operation and animals are present at the facility.

²⁹ These fees apply to discharges from poultry operations that are identified as posing a “low threat to water quality” in the applicable waste discharge requirements or waiver of waste discharge requirements.

³⁰ Rounded to the nearest whole number

(4) Facility closures that are required to maintain a permit until all requirements are met shall continue to be assessed a fee based at the same rate as when the facility was in operation.

(5) Facilities covered under a waste discharge requirement or waiver of waste discharge requirement that do not pay annual fees shall pay an application fee for initial coverage and renewals of coverage of \$200. The fee shall be paid each time an application for coverage or report of waste discharge is submitted.

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

Section 2200.1.

The state board shall notify each discharger annually of the fee to be submitted, the basis upon which the fee was calculated, and the date upon which the fee is due. **The state board may generate invoices based on the prior year's fee schedule prior to the state 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 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 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.**

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

Section 2200.6. Annual Agricultural and Irrigated Lands Fee Schedule.

(a) Annual fees for waste discharge requirements and waivers of waste discharge requirements for discharges from agricultural lands,¹ including irrigated lands, shall be as follows:

(1) If a discharger is a member of a group that has been approved by the Regional Board or Regional Board Executive Officer to manage fee collection and payment, then the annual fee shall be based on agricultural activity according to the following fee schedule:

Agricultural Activity Tier for Group Enrollment	Per Acre Fee
Tier A – All agricultural activity except those identified in Tier B.	<u>\$1.351.42</u>
Tier B – Discharger or group of dischargers whose agricultural activities are managed wetlands, irrigated pastures with no external nitrogen input, those belonging to the California Rice Commission third party group, or are determined by the Regional Water Board or the Executive Officer to be exempt from the precedential requirement to develop an Irrigation and Nitrogen Management Plan. ²	<u>\$1.081.14</u>

(2) If a discharger is not a member of a group that has been approved by the Regional Board or Regional Board Executive Officer to manage fee collection and payment, then the annual fee shall be based on agricultural activity according to the following fee schedule:

¹ As used in this section, the acreage on which the fee is based refers to the area that has been irrigated or cultivated by the farmer or discharger at any time in the previous five years.

² Per State Water Board Order No. WQ 2018-0002, In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group.

Agricultural Activity Tier for Individual Enrollment	Per Acre Fee
Tier A – All agricultural activity except those identified in Tier B.	\$33.51 <u>35.45</u> per acre up to 300 acres plus \$16.76 <u>17.73</u> per acre over 300 acres with a minimum fee of \$668 <u>673</u>
Tier B – Discharger or group of dischargers whose agricultural activities are managed wetlands, irrigated pastures with no external nitrogen input or are determined by the Regional Water Board or the Executive Officer to be exempt from the precedential requirement to develop an Irrigation and Nitrogen Management Plan. ²	\$26.81 <u>28.36</u> per acre up to 300 acres plus \$13.40 <u>14.18</u> per acre over 300 acres with a minimum fee of \$668 <u>673</u>

(b) Upon approval by the regional board to join a group subject to waste discharge requirements or waivers of waste discharge requirements for discharges from agricultural lands, including irrigated lands, the discharger shall submit to the state board an application fee, unless such fee is not required by the regional board. The application fee is a one-time fee of \$200 for dischargers that have received a written request to submit an application or report of waste discharge, and \$50 for all other dischargers. This application fee shall not apply to dischargers who were members of a group on or before June 30, 2008.

(c) For purposes of this section, the words “agricultural lands,” “irrigated lands,” “farm,” and “discharger” have the meaning contained in the applicable regional board or state board waste discharge requirements or waiver of waste discharge requirements for discharges from agricultural lands, including irrigated lands. These fees shall apply whether or not a regional board or the state board has previously waived the payment of fees for the discharge of waste.

Note: Authority cited: Sections 185, 1058 and 13260, Water Code. Reference: Sections 13260 and 13269, Water Code.

2200.7. Annual Fee Schedule for Cannabis Cultivation.

(a) Annual fees for dischargers covered under Statewide General Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation shall be as follows:

- (1) Tier 1 – Dischargers that have a disturbed area greater than 2,000 square feet and less than one acre:

Risk Designation	Annual Fee
Low Risk	<u>\$725,761</u>
Moderate Risk	<u>\$1,985,204</u>
High Risk	<u>\$5,135,392</u>

- (2) Tier 2 – Dischargers that have a disturbed area equal to or greater than one acre:

Risk Designation	Annual Fee
Low Risk	<u>\$1,145,120</u>
Moderate Risk	<u>\$3,245,407</u>
High Risk	<u>\$8,495,919</u>

Dischargers that have a disturbed area equal to or greater than two acres shall pay the applicable surcharge below to a maximum surcharge fee of \$21,646,728:

Acres	Per Acre Surcharge
2-50	<u>\$194,204</u>
51-100	<u>\$105,110</u>
101+ <u>or more</u>	<u>\$5,355</u>

- (3) Waiver of Waste Discharge Requirements – Dischargers with indoor cultivation sites that meet the requirements for a waiver of waste discharge requirements or conditionally exempt outdoor sites:

Discharge Type	Application Fee	Annual Fee
Waste Hauler	<u>\$725,761</u>	<u>\$725,761</u>
Municipal Sewer	<u>\$725,761</u>	<u>\$194,204</u>
Conditionally Exempt Outdoor Site	<u>\$725,761</u>	<u>\$194,204</u>
Other Permitted Discharges ¹	<u>\$725,761</u>	<u>\$725,761</u>

Note: Authority cited: Sections 185, 1058 and 13260 Water Code. Reference: Sections 13260 and 13269, Water Code.

¹ Includes discharges to Onsite Wastewater Treatment Systems.