REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT

We have identified your facility or property as requiring regulatory cleanup oversight. Pursuant to the Porter-Cologne Water Quality Control Act, reasonable costs for such oversight can be recovered by the Regional Water Quality Control Board (Regional Water Board) from the responsible party. The purpose of this enclosure is to explain the oversight billing process structure.

Introduction

The Porter-Cologne Water Quality Control Act authorizes the State Water Resources Control Board (State Water Board) to set up Cost Recovery Programs. The Budget Act of 1993 authorized the State Water Board to establish a Cost Recovery Program for the Site Cleanup Program (SCP). The program is set up so that reasonable expenses incurred by the State Water Board and Regional Water Boards in overseeing cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely impacting the State's waters can be reimbursed by the responsible party. Reasonable expenses will be billed to responsible parties and collected by the Fee Coordinator at the State Water Board in the Division of Financial Assistance.

The Billing System

Each cost recovery account has a unique charge number assigned to it. Whenever any oversight work is done, the hours worked are charged to the account number on the employee's time sheet. The cost of the hours worked is calculated by the State Accounting System based on the employee's salary and benefit rate and the State Water Board overhead rate.

State Water Board and Regional Water Board administrative charges for work such as accounting, billing preparation, general program meetings and program specific training cannot be charged directly to an account. This work will be charged to administrative accounting codes. The Accounting Office totals these administrative charges for the billing period and distributes them back to all of the accounts based on the number of hours charged to each account during that billing period. These charges show as State Water Board Program Administrative Charges and Regional Water Board Program Administrative Charges on the Invoice.

The Overhead Charges are based on the number of labor hours charged to the account. The overhead charges consist of rent, utilities, travel, supplies, training, and personnel services. If there is no labor charged to the account during the billing period, there will be no overhead charges for that billing period with the exception of the last month of each fiscal year. This is due to the fact that the labor charges end June 30 for the current fiscal year. However, several kinds of overhead charges such as supply orders and travel expenses are paid after the fiscal year ends. The State Water Board Accounting Office keeps track of these charges and distributes them back to all of the accounts based on the number of hours charged to each account for the whole fiscal year that has just ended. Therefore, the quarterly statements for the last month of the fiscal year could show no labor hours charged for the billing period, but some overhead charges could be charged to the account.

Invoices are issued quarterly, one quarter in arrears. If a balance is owed, a check is to be remitted to the State Water Board with the invoice remittance stub within 30 days after receipt of the invoice. The Accounting Office sends a report of payments to the Fee Coordinator on a quarterly basis.

Copies of the invoices are sent to the appropriate Regional Water Boards so that they are aware of the oversight work invoiced. Questions regarding the work performed should be directed toward your Regional Water Board project manager. If the responsible party becomes delinquent in its quarterly payments, oversight work may cease immediately. Work will not begin again unless the payments are brought up-to-date.

REIMBURSEMENT PROCESS FOR REGULATORY OVERSIGHT

Daily Logs

A detailed description (daily log) of the actual work being done at each specific site is kept by each employee in the Regional Water Board who works on cleanup oversight at the property. This information is provided on the quarterly invoice using standardized work activity codes to describe the work performed. *Upon request, a more detailed description of the work performed is available from the Regional Water Board staff.*

Removal From The Billing System

After the cleanup is complete, the Regional Water Board will submit a closure form to the State Water Board to close the account. If a balance is due, the Fee Coordinator will send a final billing for the balance owed. The responsible party should then submit a check to the State Water Board to close the account.

Agreement

You will be sent a cost recovery letter with another copy of this attachment, an explanation of billing rates, and an acknowledgement letter to be signed and returned to the Regional Water Board. No cleanup oversight will be performed unless the responsible party of the property acknowledges that it agrees to reimburse the State for appropriate cleanup oversight costs. You may wish to consult an attorney in this matter. As soon as the acknowledgement letter is received, the account will be added to the active SCP Cost Recovery billing list and oversight work will begin.

Regional Water Board Dispute Resolution

Based on the Regional Water Board's review and comment, the following will guide the section San Francisco Bay Regional Water Board’s billing process.

The Regional Water Board staff proposes to provide each responsible party (upon request) with daily logs of actual oversight work done and supporting accounting information for the responsible party's site. If, upon the receipt of the billing statement, the responsible party disputes the amount due, the responsible party may follow the dispute resolution procedure described below. If the responsible party follows the procedure, the Regional Water Board will not initiate, except as noted, enforcement action for failure to reimburse the State Water Board. During this procedure, the responsible party is encouraged to confer with Regional Water Board staff at any time to discuss the areas in question and attempt to resolve the dispute.

1. The responsible party must notify the Regional Water Board in writing within 30 calendar days of receipt of the billing statement to indicate that it disputes the billing statement and requests a meeting with the Regional Water Board Assistant Executive Officer. This notification must indicate the specific areas of dispute and provide all appropriate support documentation. Upon completion of the meeting, the Assistant Executive Officer will provide a recommendation to the Regional Water Board Executive Officer on the dispute and recommend an amount due, based on documentation provided by both the responsible party and the Regional Water Board staff at the meeting. The Executive Officer will submit a written decision and resultant amount due to the responsible party and specify the new due date by which the resultant amount due must be paid to avoid enforcement action. This due date will be not less than ten working days from the date of the Executive Officer's written decision.

2. If, upon receipt of the Executive Officer's written decision, the responsible party still disputes the amount due and so notifies the Executive Officer by the new due date, the Executive Officer will schedule an appeal hearing of the decision before the Regional Water Board at the next appropriate monthly meeting. The

Executive Officer may also consider recommending that the Regional Water Board take enforcement action for the responsible party's failure to pay the resultant amount due by the new due date if the Regional Water Board finds the responsible party's appeal without basis. Any amount due and not appealed to the Regional Water Board will be considered a violation of the Regional Water Board's order.

California Code of Regulations - Dispute Resolution

If a dispute regarding oversight charges cannot be resolved with the Regional Water Board, section 13320 of the California Water Code provides an appeal process to Regional Water Board decisions. Regulations implementing Water Code section 13320 are found in Title 23 of the California Code of Regulations, section 2050.