

**OTHER STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER  
QUALITY CONTROL BOARD PERMITS AND AUTHORIZATIONS  
(WASTE DISCHARGE REQUIREMENTS,  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS,  
WATER RECLAMATION PERMITS, AND BASIN PLAN AMENDMENTS)**

**OVERVIEW OF AUTHORIZATIONS**

The primary responsibility for the protection of water quality in California rests with the [State Water Resources Control Board \(SWRCB\)](#) and [nine regional water quality control boards \(RWQCBs\)](#). The SWRCB provides program guidance and oversight, allocates funds, and reviews RWQCB decisions. The RWQCBs have responsibility for individual permitting, inspection, and enforcement actions within each of the nine regions (see [Figure 10](#)). The RWQCBs adopt and implement specific water quality control plans (basin plans) that recognize regional differences in natural water quality, actual and potential beneficial uses, and water quality problems associated with human activities.

The SWRCB and RWQCBs regulate discharges of waste that could affect the quality of waters of the State, and discharges of waste into waters of the State through waste discharge requirements (WDRs) authorized under the State's [Porter-Cologne Water Quality Control Act](#), and through [National Pollutant Discharge Elimination System \(NPDES\)](#) permits authorized under the federal Clean Water Act (CWA). The Porter-Cologne Water Quality Control Act defines waters of the State as "any surface water or ground water, including saline waters, within the boundaries of the state".

The RWQCBs issue WDRs to regulate activities of entities subject to the State's jurisdiction that would discharge waste that may affect groundwater quality or that may discharge waste in a diffused manner (e.g., through erosion from soil disturbance). The types of activities that fall under this requirement include dredging or filling operations, experimental or long-term work in sensitive environments, and the disposal of wastes on land. For specific situations, RWQCBs may waive the requirement to obtain a WDR for discharges to land, or they may determine that a general NPDES permit or general WDR may be more effective for a proposed discharge.

Section 402 of the CWA authorizes states to issue NPDES permits for discharges to surface waters both from point sources (discrete conveyances such as pipes or constructed ditches) and from non-point sources (pollution that does not come from a defined discrete source, such as a pipe, but which is spatially diffuse--such as urban runoff or agricultural runoff). The permits specify pollution limits and monitoring and reporting requirements for permitted discharges.

The RWQCBs also regulate water quality related to the use of reclaimed water by issuing permits for water reclamation projects. In addition, they enforce water quality standards

established in basin plans approved by the SWRCB and establish water quality objectives and beneficial uses of major rivers and streams in their jurisdictions.

This section describes requirements for the following authorizations:

- WDRs,
- NPDES permits,
- water reclamation permits, and
- basin plan amendments.

## WASTE DISCHARGE REQUIREMENTS

**OVERVIEW.** The State's nine RWQCBs issue WDRs to regulate activities of entities subject to the State's jurisdiction that would discharge waste that may affect groundwater quality or that may discharge waste in a diffused manner (e.g., through erosion from soil disturbance or waste discharges to land).

Figure 11 illustrates the process for obtaining waste discharge requirements.

**WHO NEEDS TO COMPLY?** CALFED actions that could require WDRs include those that involve the discharge of waste from construction operations, discharges of pumped groundwater, and dredging and filling operations. CALFED actions that involve dam removal would probably need WDRs.

**WHO IS EXEMPT?** Activities specifically undertaken by a federal agency do not require WDRs, but a Section 401 certification may be required; any other activities that do not pose a threat or nuisance to water quality may be allowed a waiver of WDR permitting.

**HOW LONG DOES THE APPROVAL PROCESS TAKE?** RWQCBs usually approve applications for WDRs in about 6 months.

**WHAT INFORMATION DOES THE APPLICANT NEED TO PROVIDE?** Applicants for WDRs must complete a report of waste discharge (ROWD), providing information about the following:

- discharging facilities (e.g., facility owner, facility operator, landowner);
- the type of discharge;
- the locations of discharging facilities and discharge points;
- the status of CEQA compliance and completed or expected CEQA documentation;
- the character of the discharge, including descriptions of the following:
  - design and actual flows,
  - constituents and discharge concentrations of each constituent,

- treatment processes (including a schematic drawing),
  - proposed best management practices (BMPs), and
  - disposal methods; and
- the source of water for the project.

**WHAT IS THE FEE?** Annual fees for WDRs range from \$200 to \$10,000, depending on the characteristics of the proposed discharge. Dairies are subject to a filing fee only, with no annual fees due. The first annual payment must be submitted with the completed application. Applicants should contact the appropriate RWQCB for the amount of their annual fee.

**WHAT DOES THE APPLICATION AND EVALUATION PROCESS ENTAIL?** The steps for obtaining WDRs are as follows:

1. The applicant files the ROWD form and any necessary supplemental information with the appropriate RWQCB at least 120 days before beginning to discharge waste.
2. After the RWQCB receives the ROWD and appropriate fee, RWQCB staff members determine whether the application is complete and request additional information, if necessary.
3. Once the application is complete, RWQCB staff members determine whether the proposed discharge is consistent with the SWRCB's and RWQCB's adopted water quality objectives, the Areawide Waste Treatment Management Plan, the basin plan for the region, and State policies for water quality control. They decide whether the RWQCB should adopt WDRs, prohibit the discharge, or waive the requirements.
4. If they determine that the RWQCB should adopt WDRs, RWQCB staff members prepare the proposed WDRs, including proposed effluent limitations, special conditions, and a monitoring program for the discharge. The proposed WDRs are distributed to persons and public agencies with a known interest in the project, and the parties are allowed at least 30 days to comment. The proposed WDRs may be revised based on comments received from the applicant and interested parties.
5. The RWQCB holds a public hearing after a public notification period of at least 30 days. The RWQCB may adopt the proposed WDRs or modify them and adopt them at the public hearing by majority vote. WDRs become effective upon adoption unless the RWQCB specifies a different effective date.

**DOES THIS PROCESS TRIGGER THE NEED FOR COMPLIANCE WITH OTHER REGULATIONS?** Because the issuance of WDRs is discretionary, CEQA compliance is required before an RWQCB issues WDRs. RWQCBs rarely serve as lead agencies for CEQA compliance. In some limited cases, the RWQCB may determine that the proposed discharge is categorically exempt from CEQA. If the action is not exempt, the RWQCB typically serves as a responsible agency. In such a case, it will respond to either the notice of intent to adopt a negative declaration or the notice of preparation of an environmental impact report.

**WHAT ARE THE OPPORTUNITIES FOR FACILITATING COMPLIANCE WITH THIS PROCESS?** The following steps are recommended to simplify and streamline the WDR process for CALFED actions.

- **Design the project in such a way that WDRs are not required.** A project designed to avoid impacts on water quality will not require review by the RWQCB and/or SWRCB.
- **Coordinate early with the RWQCB.** A project applicant should coordinate early with the RWQCB to determine the types of permits necessary for the proposed action. Doing so will enable the applicant to revise the project description to incorporate mitigation, if necessary. It also may reduce the number or complexity of permits that the applicant must obtain from the RWQCB. The applicant should explore every opportunity to ensure that the project qualifies for the general permits available from the RWQCB.
- **Provide complete, detailed information, using information previously prepared for a Section 404 application where possible.** As with many other permitting processes, preparing a complete application, including a detailed and relatively final project description and proof of CEQA compliance, can greatly help expedite processing of an application for WDRs. A Section 404 permit application package can be used in the WDR application as well.

## **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS**

**OVERVIEW.** The SWRCB and RWQCBs issue both general and individual NPDES permits. General permits are issued for activities such as construction and industrial operations. Individual NPDES permits are issued for activities not authorized under a general permit.

Many CALFED actions that are subject to NPDES requirements may be permitted under the NPDES Construction Activities Storm Water General Permit. This general permit is for stormwater discharges associated with construction activity, including clearing, grading, excavation, and reconstruction of existing facilities, that could disturb at least 5 acres of land or that is a part of a larger common area of development or sale. Beginning in March 2003, the threshold for compliance with this general permit will change to construction activity that disturbs 1 acre or more of land.

Figure 12 illustrates the NPDES permit process.

**WHO NEEDS TO COMPLY?** NPDES permitting is required for all CALFED actions considered point-source discharges into waters of the United States, or in which construction would disturb at least 5 acres of soil and water is discharged to surface waters during a dewatering process.

**WHO IS EXEMPT?** NPDES permits are not required for activities that would discharge waste into a community sewer system. The U.S. Environmental Protection Agency (EPA) requires treatment of certain hazardous and other wastes before they enter a community sewer system; the project proponent should contact the local sewerage agency to determine whether pretreatment of waste discharges is required for certain waste streams.

Stormwater discharges on Indian tribal lands are regulated by EPA rather than the SWRCB and RWQCBs. Stormwater discharges from construction activity in the Lake Tahoe Hydrologic Unit are regulated under separate permits adopted by the Lahontan RWQCB and are not covered under the SWRCB's stormwater general permit.

**HOW LONG DOES THE APPROVAL PROCESS TAKE?** The legal maximum time for processing an NPDES permit, from the time of completion of the application is six months, and the RWQCB usually makes a determination about an individual NPDES permit within that time frame. In preparing the permit application form, however, the project proponent needs to be aware that waste characterization, receiving water modeling, etc. can take a significant amount of time before the six-month review period begins. Adverse comments or unforeseen circumstances during the permit process may extend the process beyond six months. There is no specific approval process for, or timing of, approval for general permits, which the State oversees; however, each approved general permit includes terms and conditions that dictate agency notification and documentation requirements.

#### **WHAT INFORMATION DOES THE APPLICANT NEED TO PROVIDE?**

**GENERAL PERMITS.** Project proponents who seek authorization under a general permit must submit a notice of intent to comply with the terms and conditions of the appropriate approved general permit. For example, a proponent seeking authorization under the Construction Activities Storm Water General Permit must submit a notice of intent to comply with the terms of the general permit to discharge stormwater associated with construction activity. This example notice of intent must include the following:

- name and address of the property owner and developer/contractor;
- location and size of the construction site;
- a vicinity map of the construction project location;
- size of the area to be disturbed;
- percentage of the site that is impervious before construction, and percentage that will be impervious after construction;
- dates of construction;
- percentage of the site to be mass graded;

- type of construction;
- payment of the annual fee;
- regulatory status (status of any erosion- or sediment-control plan that a local agency requires, and an explanation of whether the project is subject to CWA Section 404 or 401 conditions);
- information on receiving water; and
- status of the required stormwater pollution prevention plan (SWPPP).

In the case of the Construction Activities Storm Water General Permit, the SWPPP must include information on:

- the project;
- pollutant source and best management practices (BMPs);
- erosion- and sediment-control measures;
- nonstormwater management;
- postconstruction stormwater management;
- maintenance, inspection, and repair of BMPs and other erosion- and sediment-control measures;
- construction crew training; and
- contractors and subcontractors working on the project.

The SWPPP must be completed before construction begins. Some RWQCBs require submittal of the SWPPP; however, upon request, the SWPPP must be made available to an RWQCB or to the public.

**INDIVIDUAL PERMITS.** Applicants for NPDES individual permits must complete the ROWD form; see “Waste Discharge Requirements” above for a description of information required for the ROWD. The ROWD must be accompanied by a site map. The ROWD is filed with the RWQCB along with the appropriate federal NPDES permit application form, which depends on the type of discharging activity.

**WHAT IS THE FEE?** A fee of \$250–\$500 per year is assessed for projects operating under general permits.

## WHAT DOES THE APPLICATION AND EVALUATION PROCESS ENTAIL?

**CONSTRUCTION ACTIVITIES STORM WATER GENERAL PERMIT.** Before beginning construction, a party that seeks authorization to proceed under the Construction Activities Storm Water General Permit must submit to the SWRCB Storm Water Permit Unit a notice of intent to comply with the terms of the general permit, as described above. There is no application review process. A construction site is considered to be covered under this general permit once a complete and accurate notice of intent has been filed and the appropriate annual fee has been paid. When it has received the notice of intent and fee, the RWQCB sends each discharger a letter that contains the discharger's identification number (waste discharge identification [WDID] number). At their discretion, RWQCB staff members can request copies of the SWPPP and conduct field visits of sites covered under the permit to ensure compliance with permit conditions. The SWPPP must be available onsite for review by visiting RWQCB staff members.

**INDUSTRIAL STORM WATER GENERAL PERMIT.** This is a general permit for specific industrial activities (e.g., concrete mixing, maintenance yards, sewage treatment plants). This permit is unlikely to apply to many CALFED activities. There is no application or permit review process for this permit. Owners or operators of existing industrial facilities who seek authorization to proceed under the Industrial Storm Water General Permit must submit a notice of intent and "to-scale" site map to the SWRCB. Owners or operators of new industrial facilities that require an NPDES stormwater permit must file a notice of intent at least 30 days before they begin to operate the facility. Proponents who seek authorization to proceed under the Industrial Storm Water General Permit must complete a SWPPP and develop a monitoring plan.

**GENERAL ORDER FOR DEWATERING AND OTHER LOW THREAT DISCHARGES TO SURFACE WATERS.** This is a general permit authorized by the Central Valley RWQCB for specific discharges of clean or relatively pollutant-free wastewater that pose little or no threat to water quality. The permit covers well development, construction dewatering, pump/well testing, and various other activities that involve low-threat discharges. There is no application or permit review process for this permit. Before beginning construction, an applicant who seeks authorization to proceed under the General Order for Dewatering and Other Low Threat Discharges to Surface Waters must submit to the RWQCB a notice of intent to comply with the terms of the general permit.

As noted earlier, most CALFED actions will take place in the jurisdiction of either the San Francisco Bay RWQCB or the Central Valley RWQCB. The San Francisco Bay RWQCB does not have a general permit for dewatering or other low-threat discharges to surface water. Therefore, the applicant should determine within which RWQCB jurisdiction the proposed activity occurs and consult with the appropriate RWQCB early in the planning process to determine the required permits.

**INDIVIDUAL PERMIT.** An individual NPDES permit is issued for any regulated discharge of pollutants into surface waters that is not covered by a general permit. The steps for obtaining an individual NPDES permit are as follows:

1. The applicant files the ROWD form and the appropriate federal NPDES application forms with the RWQCB at least 180 days before beginning the discharging activity.
2. After the RWQCB receives the ROWD, application forms, and appropriate fee, RWQCB staff members determine whether the application is complete and request additional information, if necessary.
3. Once the application is complete, RWQCB staff members forward it to EPA within 15 days. EPA has 30 days to request additional information from the applicant, if necessary. After any request for additional information is met, the EPA has an additional 30 days to complete the review and forward comments to the RWQCB.
4. RWQCB staff members evaluate the permit application to determine whether the proposed discharge is consistent with the SWRCB's and RWQCB's adopted water quality objectives, the Areawide Waste Treatment Management Plan, and the basin plan for the area where the project is located. They determine whether an NPDES permit should be issued or the discharge should be prohibited. If a permit is to be issued, RWQCB staff members prepare a proposed permit, which includes:
  - effluent limitations,
  - a program for the discharger to monitor the discharge,
  - reporting requirements, and
  - a fact sheet or statement of basis.

The fact sheet contains the following information:

- a description of the facility or activity that is subject to the draft permit;
- a sketch or detailed description of the location of the discharge;
- a description of the type and quantity of waste to be discharged;
- a summary of the basis for the draft permit conditions, such as regulatory provisions;
- calculations and explanations of the derivation of effluent limitations;
- descriptions of requested variances with reasons why they do or do not appear justified;
- an explanation of any permit terms that limit control of toxic pollutants, internal waste streams, or indicator pollutants;

- a description of the compliance history and compliance status of the discharge;
- a description of the procedures for reaching a final decision on the draft permit; and
- the name and telephone number of a staff member who can provide additional information.

The proposed NPDES permit and fact sheet are forwarded to the EPA for review. For minor discharges, an abbreviated statement of basis is prepared instead of a fact sheet.

5. EPA reviews the application and has 30 days to object or submit comments to the RWQCB. EPA may request an additional 60 days to review the proposed NPDES permit.
6. RWQCB staff members prepare a notice of public hearing and mail it to the applicant with instructions for circulation. The applicant must publish the notice for 1 day and submit proof of having complied with the instructions to the RWQCB within 15 days after the posting or publication. RWQCB members also mail the notice and proposed permit to other parties with a known interest in the project. The RWQCB staff may modify the permit before the public hearing based on comments received from the applicant and interested parties.
7. The RWQCB holds a public hearing at least 30 days after a public notification. The RWQCB may adopt the proposed NPDES permit or modify it and adopt it at the public hearing by majority vote. The EPA has 10 days to object to the adopted permit; the NPDES permit does not become effective until the RWQCB satisfies all EPA objections.

**DOES THIS PROCESS TRIGGER THE NEED FOR COMPLIANCE WITH OTHER REGULATIONS?** NPDES permits in themselves rarely trigger the need for a Negative Declaration or EIR under CEQA. In some limited cases, the RWQCB may determine that the proposed discharge is categorically exempt from CEQA. If the action is not exempt, the RWQCB typically serves as a responsible agency and will conduct an evaluation of the water quality impacts of the discharge and call for mitigation as required by CEQA.

**WHAT ARE THE OPPORTUNITIES FOR FACILITATING COMPLIANCE WITH THIS PROCESS?** The following steps are recommended to simplify and streamline the NPDES permitting process for CALFED actions.

- **Design the project in such a way that an NPDES permit may not be required.** A project designed to avoid discharge into waters of the State may not require review by the RWQCB and/or SWRCB. If there is a pollutant discharge to surface water (and this occurs for almost every discharge), a NPDES permit is needed. The RWQCB has no ability to waive issuance of NPDES permits. The Low Threat General NPDES

permit allows quick approval of many of these minor discharges. Both Federal law and the Basin Plan encourage design of projects to eliminate discharges to surface waters, and thus eliminate the need for an NPDES permit. Land discharges may still need a Waste Discharge Requirements (WDR) permit from the RWQCB, however.

- **Coordinate early with the RWQCB.** A project applicant should coordinate early with the RWQCB to determine the types of permits necessary for the proposed action. Doing so will enable the applicant to revise the project description to incorporate mitigation, if necessary. It also may reduce the number or complexity of permits that the applicant must obtain from the RWQCB. Every opportunity should be explored to ensure that the project qualifies for the general permits available from the RWQCB. If a complicated permit review is required, early consultation will help ensure that the RWQCB will have enough staff available for the permit review process.
- **Provide complete, detailed information, using information previously prepared for a Section 404 application where possible.** As with many other permitting processes, preparing a complete application, including a detailed and relatively final project description and proof of CEQA compliance, can greatly help expedite processing of an NPDES permit. A Section 404 permit application package can be used in the NPDES permit application as well.

## **WATER RECLAMATION PERMITS**

An RWQCB may prescribe water reclamation (reuse) requirements where reclaimed water is used or proposed to be used if the RWQCB determines that such requirements are necessary to protect health, safety, or welfare (Water Code Section 13523). RWQCBs with established programs issue water reclamation permits and requirements for individual water reclamation projects, as authorized by the California Water Code, in conformance with California Code of Regulations Title 22 regulations established by the California Department of Health Services (DHS). For uses not addressed by Title 22 criteria, DHS establishes requirements on a case-by-case basis. Water reclamation permits ensure that reclaimed water is of an adequate quality for its intended use.

Water reclamation projects may generate salts that have been removed from the reclaimed water. If this salt is to be disposed of through deep injection into the ground, the project would require an EPA Title 27 permit. If a discharger currently discharges wastewater into a waterway and intends to reuse that water instead, this would require a water right modification (under Water Code Section 1211) from the SWRCB.

No fee is assessed for a water reclamation permit. An application for a water reclamation permit includes CEQA documentation and a letter from DHS indicating that DHS concurs with the issuance of a permit.

Water reclamation permits are adopted by the RWQCB, in the same manner as WDRs.

## **BASIN PLAN AMENDMENTS**

If discharge of waste from a proposed project is projected to exceed existing basin plan standards, the applicant needs to either change the project or request a change to the standards. A basin plan amendment also could be used to strengthen standards for individual pollutants. In the Central Valley there are two basin plans, Sacramento/San Joaquin and Tulare. Some CALFED actions would be implemented within the jurisdiction of the San Francisco Bay RWQCB in areas covered by the San Francisco Bay basin plan.

An application for a basin plan amendment includes documentation equivalent to that required by CEQA. The process of amending a basin plan is high profile and potentially controversial. It can take up to 2 years to process an application for a basin plan amendment; the process includes a 45-day public review period, adoption by the RWQCB and SWRCB, and review by the Office of Administrative Law.



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