DRAFT

CONCEPTS FOR A PROPOSED STATEWIDE ORDER FOR COMPOSTING FACILITIES

[CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS FROM IMPLEMENTATION OF CALIFORNIA CODE OF REGULATIONS, TITLE 27]

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SUMMARY

Facilities that compost waste and are not fully contained have the potential to impact groundwater and surface water. Based on information provided by those who own or operate composting facilities ("dischargers"), the California Water Boards may issue or waive waste discharge requirements (WDRs).

Many composting facilities have not been issued either WDRs or a waiver of WDRs. A statewide order is proposed to waive WDRs implementing specific regulations (California Code of Regulations [CCR] Title 27) for a broad array of composting facilities that meet certain criteria.

New and existing discharges would be required to apply for coverage under the statewide order, which is a short process; or for individual waivers of WDRs, which could be streamlined by modifying the content of the statewide order; or for individual WDRs, which is a more time consuming and prescriptive process for both the dischargers and the California Water Boards. Existing composting facilities would be required to come into compliance over a period of time.

In order to be covered by the statewide order, composting facilities must meet siting and on-site waste type criteria, and implement specific tiered water quality protection measures (WQPMs) such as liners and berms. Implementation of specified additional WQPMs would allow the specified tier to be flexible. Those additional WQPMs have not been identified and the Water Boards are open to including, in the statewide order, those that show added protection to groundwater.

Discharge of waste or wastewater off site is not allowed. As such, the California Water Boards may require a separate National Pollutant Discharge Elimination System (NPDES) permit as required by the federal Clean Water Act.

As with other discharges, a filing fee in the amount of the annual waste discharge permit fee is required to be submitted with the application (report of waste discharge/joint composting document). The fee schedule has not yet been determined and the Water Boards are open to ways to spread program costs.

The proposed statewide order and the fee schedule have not been drafted for review. However, this document shares the perspective of California Water Boards' staff with the intention of inviting feedback on most appropriate measures for protection the quality of waters of the state.

BACKGROUND

A green composting waiver of WDRs was adopted by most Regional Water Boards during the early 1990's. The scope was for only green composting then-defined as vegetative waste, and some food processing waste, agricultural waste, and paper waste, discharged to land with a volume greater than 500 cubic yards. However, a 1999 statute [Senate Bill (SB 390)] changed California Water Code (Water Code), sections 13269 and 13350, making that waiver void, by requiring all waivers to be renewed (with conditions, fees, and re-adoption every 5 years) or replaced with WDRs.

Why develop a "Conditional Waiver of California Code of Regulations Title 27 Waste Discharge Requirements for Composting Facilities (hereinafter referred to as the statewide order)?

Facilities that compost waste and are not fully contained have the potential to impact groundwater and surface water. Based on information provided by those who own or operate composting facilities ("dischargers"), the California Water Boards may issue or waive WDRs.

Many composting facilities have not been issued either WDRs or a waiver of WDRs. The green composting waiver expired so a new Water Board order is needed for those composting facilities that were under that waiver. Analysis of liquids from green and other composting facilities for salts, nutrients, metals, and pathogens indicate WQPMs that were in the green composting waiver need to be upgraded in order to limit potential impacts to water quality.

There is an expectation that there will be more composting facilities proposed. There has also been an increase in the variety of materials being composted. Individual WDRs require a significant investment of time by both the California Water Boards and the dischargers (owners or operators of a composting facility that discharges waste which could affect the quality of waters of the state). Therefore a statewide order which can apply to a broad array of composting facilities that meet certain criteria streamlines the regulatory process.

The development of the statewide order is being done in coordination with other composting related activities. Assembly Bill 939 (Integrated Waste Management Act) directed every jurisdiction to a waste diversion rate of 50 percent on and after the year 2000. The Department of Resources Recycling and Recovery (CalRecycle) Strategic Directive 6.1 calls for a 50 percent reduction of organics within the waste stream by the year 2020. Also the CCR Title 14 regulations adopted by CalRecycle include definitions and threshold sizes of composting facilities that the proposed statewide order attempts to consider for some consistency. Coordination with the local Air Quality Management Districts (AQMDs) is also occurring as part of the process for developing the proposed statewide order.

GOALS OF STATEWIDE ORDER

- Protect water quality to the same extent as discharges with a similar threat to water quality.
- Mitigate factors associated with threatening the quality and beneficial uses of the waters of the state. The factors included in the statewide order are waste type and siting in groundwater impact areas such as (1) groundwater recharge areas (Hydrogeologically Vulnerable Areas [HVAs]) and (2) areas within 300 feet of a groundwater supply well.
- Identify WQPMs that are appropriate for protecting water quality, and other waiver conditions, that if met, allow for a streamlined regulatory process and coverage under the statewide order.
- Tier the WQPMs for protection of water quality to reflect factors at composting faculties such as waste type and the potential impact to groundwater.
- Harmonize, as feasible, with CCR Title 14 composting regulations and the waste diversion efforts of CalRecycle, and requirements of the AQMDs.
- Provide the ability for those composting facilities that do not meet the criteria in the statewide order to be issued individual waivers that rely on customizing the waiver with proposed engineered alternatives to protect water quality.

ELIGIBLE FACILITIES

Facilities that are eligible to be covered by the order are those that do not accept prohibited wastes, and accept eligible wastes and any associated exempt wastes (described below). Facilities that only include exempt wastes are not subject to the statewide order because, if they continue to meet the exempt waste definitions, they are considered to pose a minimal threat to water quality and beneficial uses.

WASTE TYPES

Exempt Wastes

The following wastes and associated activities are considered unlikely to affect the quality of the waters of the state – Water Code, section 12360(a)(1) – so long as offsite discharges are prohibited. Many of these are consistent with CalRecycle's CCR Title 14 regulations:

- Chipping and grinding facilities that mechanically processes vegetative wastes (as defined in Appendix A), for the production and distribution of mulch, but does not produce compost (consistent with CCR Title 14, section 17852(a)(10)).

- Onsite composting of vegetative wastes generated from an agricultural site (agricultural vegetative wastes), or agricultural site owned or leased by the owner, parent, or subsidiary, from which all compost generated is returned to the same agricultural site, or agricultural site owned or leased by the owner, parent, or subsidiary (consistent with CCR Title 14, section 17855(a)(1)).

- Onsite composting of biosolids at a wastewater treatment plant, currently operating pursuant to WDRs issued by a Regional Water Board (consistent with CCR Title 14, section 18755(a)(5)(B)).

- Activities involving the temporary collection and storage of vegetative wastes and other land clearing debris, at a publicly designated site, necessary for fire protection, provided the public agency designating the site has notified the fire protection agency, and the activity does not create an open dump, hazard, or public nuisance (consistent with CCR Title 14, section 17855(a)(5)(I)).

- Non-commercial (i.e., Backyard) composting of vegetative wastes (may include less than one cubic yard of food waste at any one time) generated, composted, and used on-site an individual or single-family household (consistent with CCR Title 14, section 17855(a)(6)).

- Within-vessel composting, consisting of storing and treating eligible wastes within a fully enclosed vessel/container (i.e., 100-percent containment) whereby all leachate is retained, and all stormwater and wastewaters are prohibited from making contact with the waste.

Prohibited Wastes

Wastes identified below pose a significant threat to the quality and beneficial uses of the waters of the state, such that the requirements proposed in this document for the statewide order are insufficient, therefore these wastes are ineligible/prohibited from being discharged to land for treatment by composting or storage at a composting facility:

- Hazardous wastes (consistent with CCR Title 14, section 17855.2(c))
- Ash with contaminants of heavy metals
- Wood with contaminants of heavy metals and other preservatives
- Petroleum wastes
- Medical wastes (consistent with CCR Title 14, section 17855.2(b))
- Mammalian tissue, except when from the food service industry, grocery stores, or residential food scrap collection, or as part of a research composting activity (consistent with CCR Title 14, section 17855.2(a))
- Septage
- Sludges

Eligible Wastes

Wastes eligible for coverage under the proposed statewide order pose a potential threat to the quality and beneficial uses of the waters of the state. However, in combination with the implementation and continual maintenance of appropriate WQPMs, the potential threat to waters of the state may be successfully mitigated. These eligible wastes (i.e., feedstocks, additives, amendments, etc.) include:

- Vegetative waste
- Paper waste/pulp
- Manure
- Food waste
- Biosolids
- Animal carcasses
- Compostable municipal solid waste (consistent with CCR Title 14, section 17852(a)(26))

SITING CONSIDERATIONS

The location of the composting facility has a direct effect on the WQPMs that the facility will be required to meet. Composting facilities that are located in areas where impacts to groundwater may be more serious will be required to implement more protective water quality protection measures. Two types of groundwater impact areas will be used in the proposed statewide order: (1) Hydrogeologically Vulnerable Areas (HVAs) and (2) any area within 300 feet of a groundwater supply well.

Hydrogeologically Vulnerable Areas

Responding to Executive Order D-5-99, State Water Board staff created a map (see Figure 1, http://www.swrcb.ca.gov/gama/docs/hva_update.pdf) displaying locations where published hydrogeologic information[1] indicates conditions that may be more vulnerable to groundwater contamination. The criteria included (1) areas of groundwater recharge, rapid infiltration, or unconfined areas, and (2) local groundwater supplies occurring chiefly in the fractured igneous and metamorphic rocks underlying widespread mountain and foothill areas, or in permeable lava flows which may provide primary recharge for extensive but sparsely populated groundwater basins. These areas are considered categorically to be more vulnerable to potential contaminant releases than groundwater supplies underlying areas of slow recharge, lower infiltration rates, or intervening low permeability deposits (i.e., confining layers).

Boundaries of hydrogeologically vulnerable areas are estimated and may need to be confirmed for individual composting facilities.

Proximity to Water Supply Well

Areas outside the mapped HVAs may have shallow groundwater used by domestic water supply wells. For consistency amongst other similar waste discharges to land, the composting statewide order would require a setback distance from a groundwater supply well be equal to or greater than 300 feet. Any area within 300 feet of a public or domestic groundwater supply well that is outside a HVA is also a groundwater impact area for the purpose of the statewide order. The setback distance is measured as the closest horizontal distance between the nearest public or domestic groundwater supply well and the property boundary for the composting facility.

In addition to potential impacts to the water used by wells, well structures which do not meet the siting and construction standards specified in bulletins 74-80 and 74-91, published by the Department of Water Resources, may create a conduit for the transmission of wastewaters into water bearing zones underlying an existing or proposed compost facility.

[1] Displayed vulnerable hydrogeologic areas are based on Department of Water Resources reports, United State Geological Survey publications, and other published studies.

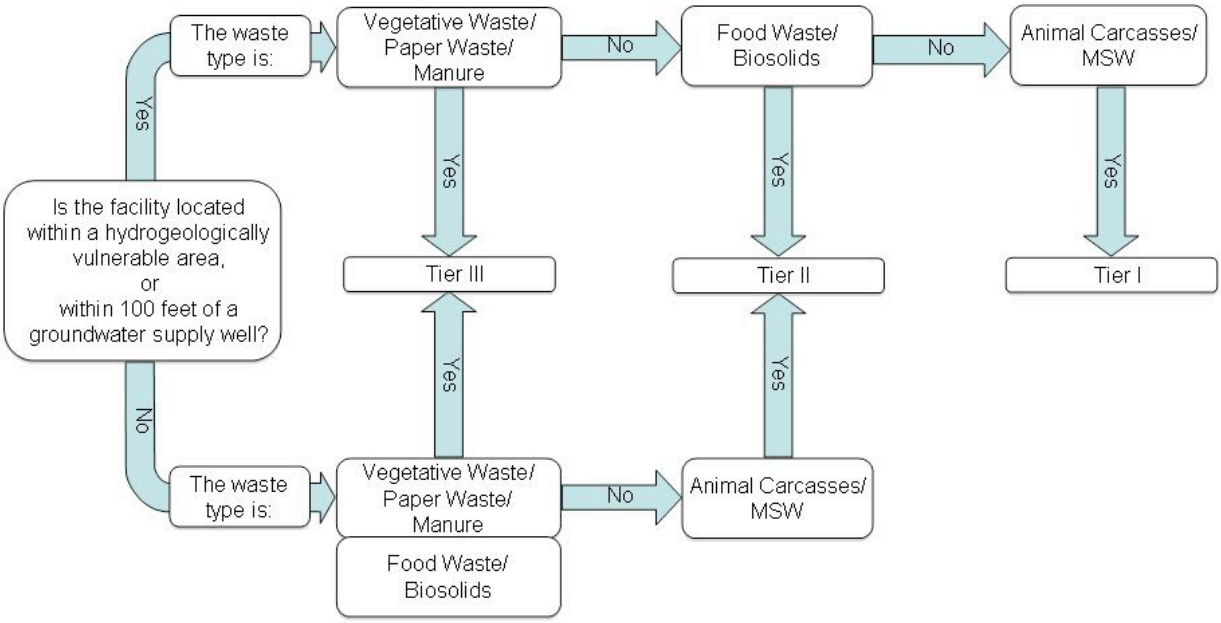
Figure 1. Hydrogeologically Vulnerable Areas Map
(http://www.swrcb.ca.gov/gama/docs/hva_update.pdf)

* Hydrogeologically Vulnerable Areas are where published studies show geologic conditions are more likely to allow surface contaminants to move to groundwater through percolation; for example: areas without an aquitard. Vulnerable areas not mapped, due to their extensiveness, are fractured rock where contaminants can move directly to water.

WATER QUALITY PROTECTION MEASURES

The WQPMs are intended to be protective of water quality, and are organized into three Tiers based on factors at composting facilities such as waste type and the potential impact to groundwater. The process to determine the appropriate WQPMs is shown in Figure 2. The requirements of the WQPMs and Tiers are summarized in Table 1.

Figure 2. Determination of Appropriate Water Quality Protection Measures



Composting Facility Pad

Purpose: Pads are used to minimize the movement of waste constituents into soil and ultimately groundwater. The hydraulic conductivity of a layer of material (and any cracks in it) determines the amount of fluid that can pass through. The hydraulic conductivity specified for each Tier is a reflection of the potential impact to groundwater based on the groundwater impact area and of the waste type (and associated waste constituents).

- Is any surface used for the storage and treatment of wastes, active compost, or stabilized compost at a compost facility; designed to impede the vertical movement of liquid phase constituents; designed to maintain positive drainage at all times; and designed, constructed, and maintained to prevent ponding/rutting or otherwise damaged from the use of mechanical equipment.

- Tier III composting facility pads are designed, constructed, and maintained to have a permeability (i.e., hydraulic conductivity) of 1×10^{-5} cm/s or less.

- Tier II composting facility pads are designed, constructed, and maintained to have a permeability (i.e., hydraulic conductivity) of 1×10^{-6} cm/s or less.

- Tier I composting facility pads are designed, constructed, and maintained to have a permeability (i.e., hydraulic conductivity) of 1×10^{-7} cm/s or less.

- Tier III, II, and I composting facility pads are designed, constructed, and maintained to have a minimum grade equal to 0.5 percent.

- Tier III composting facility pads have a minimum thickness of 1 foot.

- Tier II and I composting facility pads have a minimum thickness of 2 feet.

Composting Facility Ponds

Purpose: Ponds with waste constituents are used to ensure that waste constituents do not run off site. Offsite discharge of water with waste constituents may require an NPDES permit. Stormwater ponds may be used to keep stormwater separate from wastewater ponds. Stormwater ponds that lack waste constituents are not required to meet the following requirements.

- Tier III, II, and I composting facility ponds are capable of containing a 25-year, 24-hour storm event without the potential for overflow; make considerations for wind-driven waves and pump-out disposal; and if determined unable to comply, staff may prescribe maintaining a 2-foot minimum freeboard.

- Tier III composting facility ponds are designed, constructed, and maintained to have a permeability (i.e., hydraulic conductivity) of 1×10^{-6} cm/s or less.

- Tier II and I composting facility ponds are designed, constructed, and maintained to have a permeability (i.e., hydraulic conductivity) of 1×10^{-7} cm/s or less.

- Tier III composting facility ponds have a liner consisting of soil cement.

- Tier II and I composting facility ponds have a single composite liner.

Composting Facility Berm and Drainage Requirements

Purpose: Berms are to ensure that waste constituents do not run off site. Discharge of waste offsite may require an NPDES permit. Berms may also be used to separate stormwater from waste so that less wastewater must be stored in ponds and stormwater unassociated with waste can be managed separately. Drainage is necessary to minimize the amount of water with waste constituents that percolates into the soil and ultimately to groundwater.

- Tier III, II, and I composting facilities use berms designed, constructed, and maintained to be protected from erosion, and prevent site run-on or –off from a 25-year, 24-hour storm event without overflow, unless superseded by more stringent NPDES requirements.

- Tier III, II, and I composting facilities use drainage ditches for the conveyance of wastewaters. Drainage ditches are appropriately sized to capture and transmit, without overflow, all wastewaters, including those generated from 25-year, 24-hour storm event.

Table 1. Tiered Water Quality Protection Measures

	Tier III	Tier II	Tier I
Overall vulnerability	Low	High	Special Consideration
PAD REQUIREMENTS			
Hydraulic conductivity	< or = to $1x10^{-5}$cm/s	< or = to $1x10^{-6}$cm/s	< or = to $1x10^{-7}$cm/s
Grade	> or = to ½%	> or = to ½%	> or = to ½%
Thickness	Minimum 1 foot	Minimum 2 feet	Minimum 2 feet
Narrative	• Designed to impede vertical movement of liquid phase constituent • Designed to maintain positive drainage at all times • Utilization by mechanical equipment does not result in damage or rutting/ponding of the pad surface		
POND REQUIREMENTS			
Hydraulic conductivity	< or = to $1x10^{-6}$cm/s	< or = to $1x10^{-7}$cm/s	< or = to $1x10^{-7}$cm/s
Composition	Soil Cement	Single Composite Liner	Single Composite Liner
Monitoring	*(see Monitoring and Reporting Program)*		
Narrative	• Capable for containing 25 year/24-hour storm event without overflow • Consideration for wind-drive waves, and pump out and disposal • If unable to comply, the Water Board may prescribe maintaining a freeboard of 2 feet		
BERM REQUIREMENTS			
Narrative	• Designed, constructed, and maintained to be protected from erosion, and prevent site run –on or –off from a 25-year, 24-hour storm event without overflow, unless superseded by more stringent NPDES requirements.		
DRAINAGE DITCH REQUIREMENTS			
Narrative	• All ditched used for the conveyance of wastewaters, are concrete lined, and are appropriately sized to capture and transmit, without overflow, all wastewaters resulting from a 25-year, 24-hour storm event.		

Additional WQPMs – Not Yet Identified

Some additional WQPMs may be identified in the statewide order that, if demonstrated to have an equivalent ability to protect groundwater, may be implemented so that a facility meets lower Tier requirements. Some that have been proposed include the following:

- Use of concrete lined drainage ditches to convey/redirect stormwater or wastewater instead of berms
- Modify and coordinate watering of compost piles with impending storm events to prevent compost over-saturation and subsequent leachate production
- Changing the shape of a compost pile to adsorb greater quantities of water during summer months to reduce liquids available to percolate
- Use of filtration membranes to reduce the amount of silts and other suspended solids contained within offsite discharges, which may affect the need for an NPDES permit
- Implementing a one-year monitoring and reporting program for existing facilities to assess runoff and appropriate tier requirements
- Monitoring the volume and quality of the liquids captured by a collection pond

CLOSURE REQUIREMENTS

Dischargers provide both the Water Boards and CalRecycle written notice of intent to perform closure activities, at least 30 days prior to beginning closure activities (consistent with CCR Title 14, section 17870, and CCR Title 27, sections 21400 and 21410)

Closure of Ponds

- Unless the discharger demonstrates, and the Water Board finds, that it is infeasible to attempt clean-closure of the pond(s), then:
    - All free liquids remaining in a pond at the time of closure be removed and discharged at an appropriate waste management facility
    - All residual liquids are treated to eliminate free liquid
    - Following removal and treatment of liquid waste, all residual wastes, including sludges, precipitates, settled solids, and liner materials contaminated by wastes, are completely removed from the pond and discharged to an appropriate waste management facility
    - Remaining containment features are inspected for contamination and, if not contaminated, can be dismantled, and removed for disposal at an appropriate waste management facility
    - Any native soils beneath or adjacent to the closed pond that have been contaminated are removed for disposal at an appropriate waste management facility

  - Ponds that are successfully clean-closed, as described above, the Water Board declare the pond no longer subject to the pertinent requirements under the statewide order

- If, after reasonable attempts to remove such contaminated materials, the discharger demonstrates that removal of all remaining contamination is infeasible, the pond are closed pursuant to CCR Title 27, section 21400(b)(2)

Closure of Pads and Waste Materials

- Unless the discharger demonstrates, and the Water Board finds, that it is infeasible to attempt clean-closure of the waste materials and pad(s), then:

  - All waste materials and any component of the containment system which are contaminated by wastes be removed form the compost facility and discharged to an appropriate waste management facility

  - Remaining containment features are inspected for contamination, and if not contaminated, can be removed for disposal at an appropriated waste management facility

  - Any native soils beneath the closed pad that have been contaminated are removed for disposal at an appropriate waste management facility

- If, after reasonable attempts to achieve clean-closure, as described above, the discharger demonstrates that removal of all remaining contamination is infeasible, then the remaining portions of the waste materials and pad(s) (including all contaminated portions of the underlying and surrounding geologic materials) are closed pursuant to CCR Title 27, section 21090(a)(2)

- Dischargers must comply with all requirements set for by CalRecycle in CCR Title 14, section 17870

MONITORING AND REPORTING PROGRAM

A monitoring and reporting program (MRP) is required of dischargers pursuant to the Water Code, section 13269(a)(2). Failure to submit the required reports can result in the imposition of civil monetary liability.

MRP requirements:

- Inspections: A minimum of quarterly inspections of the composting facility and report on all observations and monitoring activities;

- Wastewater monitoring: A minimum of semi-annual sample, analysis, and reporting on all wastewaters collected at the facility for at least those constituents shown in Appendix B (below) using standard United State Environmental Protection Agency protocols (http://www.epa.gov/waterscience/methods/method/);

- Reporting: Report all observations and monitoring activities (including field and laboratory test results) in a Semi-Annual Monitoring Report, submitted in accordance with the schedule specified in Table 2;

- No changes to the MRP unless and until Water Board has issued a revised MRP.

Table 2. MRP Reporting Schedule

Report Type	Frequency	Report Period	Report Due
Semi-Annual Monitoring Report	Semi-Annual	April 1 – June 30	October 31
		July 1 – September 30	
		October 1 – December 31	April 30
		January 1 – March 31	

PROCESS FOR ENROLLMENT UNDER THE STATEWIDE ORDER

Dischargers submit a filing fee with a report of waste discharge/joint composting document (ROWD/JCD) described below. The ROWD/JCD describes the operation, identifies the Tier the discharger expects to fall into with justification, and shows how the discharger will fully implement the requirements of that Tier (see Table 3) and NOT propose any engineered alternatives to the requirements of the Tier. WQPMs specified in the statewide order. After a streamlined review by Water Board staff, the discharge will be covered by the statewide order.

Dischargers may also be required to obtain an NPDES permit.

REPORT OF WASTE DISCHARGE/JOINT COMPOSTING DOCUMENT

- Owners/Operators of composting facilities (i.e., dischargers) will be required to submit a Report of Waste Discharge (ROWD) in accordance with Water Code, section 13260 which will be in the form of a joint composting document (JCD inasmuch as composting facilities are regulated by the State Water Board and CalRecycle as well as other state agencies). The ROWD/JCD will include all applicable information required by the statewide order, as well as other agency's information to allow ease of preparation by the discharger and ease of agency review of the ROWD/JCD.

- The discharger is free to organize the ROWD/JCD in any manner that maximizes the readability and compactness of the document. However the requirements of each agency will be highlighted for ease of agency review.

    - For each line item (i.e., for each separate listed topic) in the ROWD/JCD Index, the discharger lists all ROWD/JCD pages (by page number or ranges thereof) addressing that topic.

    - Consistent with regulations promulgated by CalRecycle, a ROWD/JCD is submitted simultaneously to the Water Board and all other interested state agencies.

- In an effort to conform with California's "Working Green" initiative, the statewide order will require the discharger to submit a ROWD/JCD electronically to all local or state agencies which may jointly regulate the composting facility.

Table 3. Conceptual Regulatory Process

Statewide Order	Individual Waiver of WDRs (Streamlined Process)

DISCHARGER
• SUBMITS ROWD/JCD & FILING FEE (1ST year annual fee)
  • ROWD/JCD includes facility location (lat/long), site map, waste types that will be on site (including feedstocks, amendments, additives), and anticipated WQPMs Tier I, II, or III
	DISCHARGER
	• SUBMITS ROWD/JCD & FILING FEE (1ST year annual fee)
	  • ROWD/JCD includes facility location (lat/long), site map, waste types that will be on site (including feedstocks, amendments, additives), and anticipated WQPMs Tier I, II, or III;
	  • Includes Engineered Alternative with documentation for equivalent water quality protection

WATER BOARD
• REVIEWS ROWD/JCD
  • Clarifying questions, as needed
• ISSUES STATEMENT OF COVERAGE UNDER STATEWIDE ORDER FOR COMPOSTING FACILITIES
	WATER BOARD
	• REVIEWS ROWD/JCD
	  • Clarifying questions, as needed
	• ISSUES INDIVIDUAL WDRS IN THE FORM OF A STATEMENT OF COVERAGE UNDER THE STATEWIDE ORDER FOR COMPOSTING FACILITIES WITH THE ROWD/JCD WITH ENGINEERED ALTERNATIVE ATTACHED

DISCHARGER • IMPLEMENTS MONITORING AND REPORTING REQUIREMENT, SUBMITTING SEMI-ANNUAL MONITORING REPORTS • PAYS ANNUAL FEE	**DISCHARGER** • IMPLEMENTS MONITORING AND REPORTING REQUIREMENT, SUBMITTING SEMI-ANNUAL MONITORING REPORTS • PAYS ANNUAL FEE
WATER BOARD • REVIEWS MONITORING REPORTS AND INSPECTS FACILITY • INVOICES ANNUALLY FOR FEE • RE-ISSUES STATEWIDE ORDER EVERY 5 YEARS, INCLUDING CEQA ANALYSIS	**WATER BOARD** • REVIEWS MONITORING REPORTS AND INSPECTS FACILITY • INVOICES ANNUALLY FOR FEE • RE-ISSUES INDIVIDUAL WAIVER EVERY 5 YEARS, INCLUDING CEQA ANALYSIS

Individual Waivers - Streamlined Process

- Discharger proposes to implement an engineered alternative to meet the equivalent water quality protection provided by the prescriptive waiver requirements,
- Requires in-depth Water Board review, resulting in dischargers waiting longer to receive coverage than under the statewide order for composting facilities.
- Dischargers may also be required to obtain an NPDES permit

CEQA (California Environmental Quality Act)

Statute requires that all waivers of WDRs be re-issued every five years and include compliance with CEQA. When the waivers are re-issued the composting facilities would have to re-enroll.

ENROLLMENT

Exisiting Facilities

The three types of existing facilities will be allowed to temporarily continue current operations while concurrently engaging in the statewide order process. Upon review and approval of the facility's ROWD/JCD and prescribed WQPMs, facilities will be required to comply fully within one year.

- Previously regulated according to the green composting waiver, and continuing to operate under those requirements (no WDRs)
- Currently operating in accordance with WDRs
- Not previously regulated under the green composting conditional waiver, and do not have WDRs

Enrollment of existing eligible facilities will be staggered

- Existing eligible facilities are required to submit a ROWD/JCD within 90 days from the adoption of the statewide order are:
    - Any facility with a volume equal to, or greater than 12,500 cubic yards, of materials (encompassing all feedstocks, additives, amendments, and compost) held onsite at any time; or
    - Any facility whose composting feedstocks, additives, or amendments (of any volume) containing food waste, biosolids, animal carcasses, muncipal solid waste or any other waste not current identified under the statewide order
- Existing eligible facilities are required to submit a ROWD/JCD within 180 days from the adoption of the statewide order are:

- Any facility with a volumen less than 12,500 cubic yards, or materials (encompassing all feedstocks, additives, amendments, and compost) held onsite at any time; and

- Any facility, whose feedstocks, additives, or amendments are limited to containing vegetive waste, paper waste, or manure

New Facilities

- All eligible new composting facilities will be required to:

  - Submit a ROWD/JCD within 90 days of the State Water Boards adoption of the statewide order;

  - Fully implement the prescribed WQPMs within 1 year of the facilities approved ROWD/JCD.

ANNUAL FEES

- Water Code, section 13269(a)(4)(A), allows any Regional Water Board or State Water Board to include, as a condition of a waiver, the payment of an annual fee

  - Water Code, section 13260(f) – "The State Water Board adopts,by emergency regulation, a schedule of fees authorized under the Water Code, section 13260(d)

  - Water Code, section 13260(d)(1)(A), provides that any person discharging or proposing to discharge a waste, or plans to make changes to a waste discharge, is required to submit a ROWD/JCD – pursuant to Water Code, sections 13260(a) and (c) – and submit an annual fee according to a fee schedule established by the State Water Board in accordance with the Water Code, section 13260(f)

Current Fee Schedule

Fees are set in a fee schedule based on the Water Boards' assessment of the threat and complexity posed by a discharge (found in CCR Title 23, section 2200 et seq.). It is expected that most composting facilities would be assessed in the lower categories of threat to water quality and complexity. The definition can be found online (http://www.waterboards.ca.gov/resources/fees/docs/fy10_11_fee_schedule.pdf) and in Appendix C.

Table 4. Fiscal Year 2010-11: Fee Schedule for WDRs for Discharges to Land or Surface Waters

Threat to Water Quality (TTWQ)	Complexity (CPLX)	Fee
1	A	$58,520
1	B	$36,960
1	C	$19,943
2	A	$13,321
2	B	$8,008
2	C	$6,006
3	A	$4,732
3	B	$2,520
3	C	$1,120

New Fee Schedule for Statewide Order for Composting Facilities

Composting owners and operators could propose a schedule agreed upon by the group. The total fees targeted for collection would be the same regardless of the fee schedule and its criteria.

ENFORCEMENT

Existing law is summarized below and violations could lead to the enforcement:

- Water Code, section 13261
  - Any person discharging or proposing to discharge waste that could affect the quality of waters of the state within any region, and who has failed to provide a ROWD (pursuant to Water Code, section 13260(a))
  - Any person subject to Water Code, section 13260(a), who has made or proposes to make any material changes in the character, location, or volume of the discharge, and has failed to provide a ROWD (pursuant to Water Code, section 13260 (c))
  - Any person subject to Water Code, section 13260(a), who has failed to provide an annual fee (pursuant to Water Code, section 13260(d))
- Water Code, section 13265
  - Any person initiating a new discharge of waste without receiving Region Water Board or State Water Board approval via WDRs (pursuant to Water Code, section 13262) or conditional waiver (pursuant to Water Code, section 13269), as prescribed under the Water Code, section 13264(a)(1) or (3), or
  - Any person initiating any material changes in any discharge without receiving Regional Water Board or State Water Board approval via WDRs or conditional waiver, as prescribed under the Water Code, section 13264(a)

- Any person failing to furnish a ROWD or pay a fee under Water Code, section 13260 is subject to the penalties provided by the Water Code, sections 13261 et. seq., and 13265 et. seq. These penalties are:
  - Misdemeanor, and
  - Civil liability:
  - A Regional Water Board or the State Water Board may administratively imposed an amount not to exceed $1,000.00 per day per violation (pursuant to Water Code, section 13261 et. seq.), or
  - A superior court may impose an amount not to exceed $5,000.00 per day per violation (pursuant to Water Code, section 13265 et. seq.)

APPENDIX A: Definitions

For the purpose of the proposed statewide order for composting facilities, the following terms, phrases, or abbreviations have a narrow scope of meaning, and are as follows:

"**Active Compost**" (consistent with California Code of Regulations Title 14, section 17852) means eligible wastes (i.e., feedstocks, additives, and amendments) that are in the process of being rapidly decomposed and is unstable. Active compost is generating temperatures of at least 50 degrees Celsius (122 degrees Fahrenheit) during decomposition; or is releasing carbon dioxide at a rate of at least 15 milligrams per gram of composter per day, or the equivalent of oxygen uptake.

"**Agricultural Vegetative Wastes**" (consistent with California Code of Regulations Title 14, section 17855(a)(1)) means vegetative waste derived from an agricultural site, to be composted and returned in similar amount to that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary.

"**Animal Carcasses**" refers to any whole or part (including, but may not be limited to the flesh, organs, blood, bones, and marrow) of a carcass from either a bird or fish. Carcasses or parts thereof from mammals may also be composted, provided the tissue(s) are generated as part of the food service industry, grocery stores, residential food scrap collection program, or as part of a research composting operation (for the purposes of obtaining data on water quality impacts, pathogen reduction, or other public health, animal health, safety, or environmental concerns). All other composting facilities involving the use of mammalian tissue(s) are prohibited, consistent with California Code of Regulations Title 14, section 17855.2(a).

"**Biosolids**" means those treated waste containing solid, semi-solid, or liquid residue generated from domestic sewage in a treatment works. Biosolids includes, but is not limited to, treated domestic sewage in a treatment works. Biosolids includes, but is not limited to, treated domestic septage and scum, or solids removed in primary, secondary, or advanced wastewater treatment processes. Biosolids does not include ash generated during the firing of sewage sludge in a sewage incinerator or grit and screenings generated during the preliminary treatment of domestic sewage in a treatment works.

"**California Code of Regulations Title 14**" or "**CCR Title 14**" refers to Chapter 3.1 – Composting Operations Regulatory Requirements – promulgated by the Department of Resources Recycling and Recovery.

"**California Code of Regulations Title 27**" or "**CCR Title 27**" refers to Division 2 – which addresses the treatment, storage, processing, or disposal of solid waste – promulgated jointly by the State Water Resources Control Board and the Department of Resources Recycling and Recovery.

"**California Water Code**" or "**Water Code**" refers to Division 7, beginning with section 13000 et seq. – also known as the Porter-Cologne Water Quality Act – entrusts the State Water Resources Control Board and the nine Regional Water Quality Control Boards with broad duties and power to preserve and enhance all water quality and beneficial uses if the state's immensely complex waterscape.

"**Chipping and Grinding Facilities**" (consistent with California Code of Regulations Title 14, section 17852(a)(10)) refers to a facility that does not produce compost, that mechanically reduces the size or otherwise engages in the handling, of wastes and the site handles only vegetative wastes. Each load of vegetative waste is removed from the site within 48 hours of receipt. The local enforcement agency may allow a site to keep vegetative waste on-site for up to 7 days if the local enforcement agency determines that the additional time does not increase the potential for violations of California Code of Regulations Title 14, Chapter 3.1.

"**Compostable Municipal Solid Waste**" or "**MSW**" means compostable waste containing non-hazardous sludge, industrial solid waste, construction and demolition debris, compostable plastics, or other wastes proposed or actively discharged to land for disposal, storage and treatment by composting, not currently identified and defined in the composting facility conditional waiver. Compostable municipal solid waste does not include prohibited wastes.

"**Composting**" (consistent with California Code of Regulations Title 14, section 17852) means the process whereby eligible waste are commingled, then maintaining the resulting transformation process under aerobic conditions until the mixture (i.e., active compost) transforms into a soil-like product (i.e., stabilized compost). Composting also include activities which use the process to produce a final product that is stable, free of pathogens and viable plant seeds, and that may be beneficially applied to land.

"**Composting Facility**" means any area of land at which eligible wastes (i.e., feedstocks, additives, or amendments), or active compost are discharged for the rapid controlled biological decomposition, leading to a stabilized final product (i.e., stabilized compost). The term includes any area of land at which wastewater is discharged and/or contained.

"**Contamination**" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

"**Department of Resources Recycling and Recovery**" or "**CalRecycle**" refers to the state agency formerly named the California Integrated Waste Management Board, Division of Recycling, currently managed under the California Natural Resources Agency.

"**Discharger**" means any person who discharges, or proposes to discharge waste, which could affect the quality of waters of the state, and includes any person who owns or operates a composting facility or property on which a composting facility resides.

"**Feedstock**" is synonymous with eligible wastes under the concepts for the proposed statewide order for composting facilities, used in the production of compost.

"**Food Waste**" means wastes derived from pre- and post-processed plants and animals (excluding those wastes generated at rending facilities) for the explicit creation of foods for human and/or animal consumption. This includes, but may not be limited to, those foods and scraps processed or produced at restaurants, hospitals, food distributors, schools, and residences.

"**Groundwater**" means any water below the land surface that is at or above atmospheric pressure.

"**Groundwater Supply Well**" refers to any well constructed for the purpose of supplying water for agricultural, domestic, irrigation, or municipal demands. Generally thought of as providing a unidirectional flow of groundwater to the surface, groundwater supply wells can prove to be an effective and direct conduit for groundwater contamination.

"**Hazardous Waste**" is defined as, but may not be limited to, wastes with properties that make it potentially dangerous or harmful to human health or the environment. The universe of hazardous wastes is large and diverse. Hazardous wastes can be liquids, solids, or contained gases. They can be the by-products of manufacturing processes, discarded used materials, or discarded unused commercial products, such as cleaning fluids (solvents) or pesticides. Hazardous wastes include, but may not be limited to, those wastes that appear on one of the four Resource Conservation and Recovery Act (**RCRA**) hazardous waste (Code of Federal Regulations (**CFR**) Title 40, Part 260 et seq.,) lists (the F-list (California Code of Regulations (**CCR**) Title 22, section 66261.31) Section , K-list (CCR Title 22, section 66261.32), P-list (CCR Title 22, section 66261.33), or U-list (CCR Title 22, section 66261.34); or wastes that exhibits one of the four characteristics of hazardous waste – ignitability (CCR Title 22, section 66261.21), corrosivity (CCR Title 22, section 66261.22), reactivity (CCR Title 22, section 66261.23), or toxicity (CCR Title 22, section 66261.24); or waste oil and materials that contain or are contaminated with waste oil (Health and Safety Code, section25250.4 and CFR Title 40, Part 279); or materials that meet the hazardous waste mixture and derived-from rules (CCR Title 22, section 66261.3), or environmental media (soil, groundwater, surface water) that meets the contained-in policy.

"**Joint Composting Document**" or "**JCD**" refers to a joint application/notification document – simultaneously submitted by the discharger to the Water Boards, the Department of Resources Recycling and Recovery or local enforcement agency, or any other local or state agency which may regulate composting facilities – which addresses all of the regulatory concerns and requirements under one document. Each copy of the JCD includes an index, identifying the specific section(s) of the dischargers report which address each agencies concern and requirements. A JCD, submitted to the Water Board contain all of the information specified in a Report of Waste Discharge, in support of the issuance, revision, or renewal of a statewide order for composting facilities.

"**Leachate**" means any liquid formed by the drainage of liquids from eligible wastes (i.e., feedstocks, additives, and amendments), active compost, or stabilized compost; or by the percolation or flow of liquids through feedstocks, additives, amendments, active compost, or stabilized compost. It includes any constituents extracted from feedstocks, additive, amendments, active compost, or stabilized compost and dissolved or suspended in the fluid. The term ceases to apply to such liquids upon its being mingled with groundwater below a basin's liner system. The term also ceases to apply to such liquids upon its being treated to the extent that it no longer contains any constituents of concern whose concentration exceed water quality objectives or may potentially threat beneficial uses.

"**Mammalian Tissue**" (consistent with California Code of Regulations Title 14, section 17855.2(a)) refers to unprocessed mammalian tissue containing, but not limited to flesh, organs, hide, blood, bone, and marrow.

"**Manure**" means those wastes containing the excrement derived from livestock (horse, cattle, sheep, pigs), poultry (turkey, and chickens), or exotic herbivore animals confined at a zoological facility. Wastes may also contain the used (soiled) bedding (vegetative waste) utilized during the housing of the animals previously mentioned.

"**Medical Waste**" means those wastes meeting the definition provided in the Health and Safety Code, section 117690. Under this definition, medical wastes include, but may not be limited to trauma scene waste, pharmaceuticals, and sharps.

"**National Pollutant Discharge Elimination System**" or "**NPDES**" means the national program under the Clean Water Act, section 402 for regulation of discharges of pollutants from point sources to waters of the United States. Discharges are illegal unless authorized by a National Pollutant Discharge Elimination System permit.

"**Non-commercial Composting**" (consistent with California Code of Regulations Title 14, section 17855(a)(6)) refers to composting activities using less than one cubic yard of food waste, and were all other eligible wastes to be composted are generated and used on-site.

"**Nuisance**" means anything which meets all of the following requirements:

- Is injurious to health, or is indecent or offensive to the sense, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
- Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individual may be unequal.
- Occurs during, or as a result of, the treatment or disposal of wastes.

"**Paper Waste**" means those wastes derived from nonhazardous paper and paper by-products.

"**Permeability**" refers to the capacity of a porous rock, soil, or sediment to transmit a fluid without damaging the rock, soil, or sediment. Permeability may also be referred to as hydraulic conductivity.

"**Pollution**" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affect either the waters of the state for beneficial uses, or the facilities which server these beneficial uses. Pollution may include contamination.

"**Regional Water Quality Control Plan**" or "**Basin Plan**" refers to the region specific policies adopted by each of the nine Regional Water Quality Control Board, as mandated by both the Federal Clean Water Act and California's Porter-Cologne Water Quality Act, to provide the basis for protecting the quality of waters in California.

"**Senate Bill 390**" refers to legislation introduced by Senator Alpert, and chaptered into law in 1999, which modified the California Water Code, sections 13269 and 13350, retiring all waivers, unless renewed (with conditions and fees) and re-adopted every 5-years, or replaced with waste discharge requirements.

"**Septage**" means any waste, liquid or solid, removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives either commercial, domestic, or industrial wastes. Septage does not include fats, oils, or greases (**FOG**) removed from a grease trap at a restaurant.

"**Sludges**" means any residual solid or semi-solid from the treatment of water, wastewater, or other liquids. Sludges do not include liquid effluent discharged from such treatment process, or biosolids.

"**Stabilized Compost**" means eligible wastes (i.e., feedstocks, additives, and amendments) which have undergone the "Process to Further Reduce Pathogens (PFRP), as described in California Code of Regulations Title 14, section 17868.3, and has reached a stage of reduced biological activity as indicated by reduced temperatures and rate of respiration below that of active compost.

"**Stormwater**" means the accumulation of precipitation that falls on the composting facility but does not come into contact with any feedstock, additive, amendment, active compost, stabilized compost, or wastewaters.

"**Vegetative Waste**" consists of, or contains, wastes from plants, including leaves, clippings, cutting, trimmings of grass, weeds, shrubbery, bushes, or trees, residential or community garden waste, and untreated wood waste.

"**Washwater**" means water that is generated in the process of washing vehicles and equipment.

"**Water Boards**" refers collectively to the State Water Resources Control Board and the nine Regional Water Quality Control Boards.

"**Waters of the State**" means any surface water or groundwater, including saline waters within the boundaries of the state.

"**Within-Vessel Composting**" means the discharge of wastes – excluding prohibited wastes – to a fully enclosed vessel (i.e., 100-percent containment) for storage and treatment by composting. Vessels are designed, constructed, and maintained to prohibit contact with stormwater or wastewaters, and retain all leachate, which will be returned to the compost pile.

APPENDIX B: Proposed Monitoring Constituents and Estimated Costs

Constituents	Units	Estimated Semi-Annual Cost per Sample	Estimated Annual Cost per Sample
Ammonia (as N)	mg/l	$27	$54
Biological Oxygen Demand	mg/l	$30	$60
Chemical Oxygen Demand	mg/l	$30	$60
Chloride	mg/l	$18	$36
Lead, Total	μg/l	$20	$40
Nitrate as N	mg/l	$18	$36
Nitrogen, Total	mg/l	$63	$126
pH	pH Units	$12	$24
Phosphorous, Total	mg/l	$22	$44
Sulfate	mg/l	$18	$36
Total Dissolved Solids	mg/l	$18	$36
Total Kjeldahl Nitrogen	mg/l	$63	$126
Total & Fecal Coliform	MPN	$34	$68
	Estimated Totals	$373	$746

APPENDIX C: FY 2010-11 Fee Schedule for WDRs for Discharges to Land and Surface Waters

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.

An ambient water monitoring surcharge will be added to each individual fee as required. The ambient water monitoring surcharge for all discharges pursuant to subdivisions (a) and (c) is 9.5 percent of the calculated fee; the surcharge for all discharges pursuant to subdivision (b) is 21 percent of the calculated fee. The surcharge shall be applied to all permits prior to other surcharges prescribed herein.

(a) The annual fees for persons issued waste discharge requirements (WDRs), except as provided in subdivisions (a)(3), (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).

ANNUAL FEE SCHEDULE FOR WASTE DISCHARGE REQUIREMENTS				
Threat to Water Quality (TTWQ)	Complexity (CPLX)	Type of Discharge		
		Discharge to Land or Surface Waters[2]	Land Disposal[3]	
			Closed	Open
1	A	$58,520	$35,360[4]	$32,275[3]
1	B	$36,960	$28,560	$26,068
1	C	$19,943	$18,360	$16,758
2	A	$13,321	$15,300	$13,965
2	B	$8,008	$12,240	$11,172
2	C	$6,006	$9,180	$8,379
3	A	$4,732	$6,120	$5,586

[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 or discharge from animal feeding operations.
WDRs 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. Landscape Irrigation General Permits under Water Quality Order Number 2009-0006-DWQ will be assessed a fee associated with TTWQ/CPLX rating of 3B plus any applicable surcharges.

[2] 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. Examples include, but are not limited to, discharges associated with active and closed landfills and surface impoundments.

[3] 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.

3	B	$2,520	$4,590	$4,189
3	C	$1,120	$2,040	$1,862

(1) Threat to water quality (TTWQ)[5] 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.

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 or having numerous discharge points or ground water 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 (Order No. 2006-0003-DWQ), 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 Served[6]	**Threat and Complexity Designation**
Less than 50,000	3C
50,000 or more	2C

[5] 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.
[6] Assumes 2.5 persons per equivalent dwelling unit (EDU).

(3) The fees for discharges of dredge and fill material shall be as follows, not to exceed $40,000, plus applicable surcharge(s).[7]

Type of Discharge	Fees
(A) Fill & Excavation[8] Discharges. Size of the discharge area expressed in acres to two decimals (0.01 acre) (436 square feet) rounded up.	$640 Base Price + (Discharge area in acres x $2,752)
(B) Dredging Discharges[9] Dredge volume expressed in cubic yards.	$640 Base Price + (Dredge volume in cubic yards x $0.102)
(C) Dredging Discharges (Sand Mining). Aggregate extraction in marine waters where source material is free of pollutants and the dredging operation will not violate any basin plan provisions.	$1,024
(D) Channel and Shoreline Discharges Includes linear discharges to drainage features and shorelines, e.g., bank stabilization, revetment and channelization projects. (Note): The fee for channel and shoreline linear discharges will be assessed under the "Fill and Excavation" or "Channel and Shoreline" schedules, whichever results in the higher fee.	$640 Base Price + (Discharge length in feet x $6.40)
(E) Discharges to Non-federal (e.g. "Isolated") Waters. Discharges to waters or portions of waterbodies not regulated as "waters of the United States," including waters determined to be "isolated" pursuant to the findings of *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (2001) 121 S. Ct. 675.	Double the applicable fee schedules except for (G) restoration projects

[7]
i. For "excavation" the area of the discharge is the area of excavation; if the excavated material is then discharged to waters, an additional "fill" fee will be assessed.
ii. When a single project includes multiple discharges within a single dredge and fill fee category, the fee for that category shall be assessed based on the total area, volume, or length of discharge (as applicable) of the multiple discharges. When a single project includes discharges that are assessed under multiple fee categories, the total fee shall be the sum of the fees assessed under each applicable fee category; however a $500 base fee, if required, shall be charged only once.
iii. Fees shall be based on the largest discharge size specified in the original or revised report of waste discharge or Clean Water Act (CWA) Section 401 water quality certification application, or as reduced by the applicant without any State Board or Regional Board intervention.
iv. If water quality certification is issued in conjunction with dredge or fill WDRs or is issued for a discharge regulated under such preexisting WDRs, the current annual WDR fee as derived from this dredge and fill fee schedule shall be paid in advance during the application for water quality certification**,** and shall comprise the fee for water quality certification.
v. Discharges requiring water quality certification and regulated under a federal permit or license other than a US Army Corps of Engineers CWA Section 404 permit or a Federal Energy Regulatory Commission License shall be assessed a fee determined from CCR 23, Section 2200(a).

[8] "Excavation" refers to moving sediment or soil in shallow waters or under no-flow conditions where impacts to beneficial uses are best described by the area of the discharge. It typically is done for purposes other than navigation. Examples include trenching for utility lines, other earthwork preliminary to construction, and removing sediment to increase channel capacity.

[9] "Dredging" generally refers to removing sediment in deeper water to increase depth. The impacts to beneficial uses are best described by the volume of the discharge and typically occur to facilitate navigation. For fee purposes it also includes aggregate extraction within stream channels where the substrate is composed of course sediment (e.g., gravel) and is reshaped by normal winter flows (e.g., point bars), where natural flood disturbance precludes establishment of significant riparian vegetation, and where extraction timing, location and volume will not cause changes in channel structure (except as required by regulatory agencies for habitat improvement) or impair the ability of the channel to support beneficial uses.

(F) Low Impact Discharges. Projects may be classified as low impact discharges if they meet all of the following criteria: 1. The discharge size is less than all of the following: (a) for fill, 0.1 acre, and 200 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. 4. Discharge is to a water body regulated as “Waters of the United States.”	$640 Flat Fee
(G) Restoration Projects. Projects undertaken for the sole purpose of restoring or enhancing the beneficial uses of water. This schedule does not apply to projects required under a regulatory mandate or to projects that include a non-restorative component, e.g., land development, property protection, or flood management.	$640 Flat Fee
(H) General Orders. Projects which are required to submit notification of a proposed discharge to the State and/or Regional Board pursuant to a general water quality certification permitting discharges authorized by a federal general permit or license, (e.g., a U.S. Army Corps of Engineers nationwide permit). Applies ONLY if general water quality certification was previously granted.	$77 Flat Fee
(I) Amended Orders Amendments of WDR’s or water quality certifications previously issued for one-time discharges not subject to annual billings. (a) Minor project changes, not requiring technical analysis and involving only minimal processing time. (b) Changes to projects eligible for flat fees (fee categories C, F, G, and H) where technical analysis is needed to assure continuing eligibility for flat fee and that beneficial uses are still protected. (c) Project changes not involving an increased discharge amount, but requiring some technical analysis to assure that beneficial uses are still protected and that original conditions are still valid, or need to be modified.	(a) No fee required (b) Appropriate flat fee (c) $640 flat fee (d) Additional fee assessed per increased amount of discharge(s) per

(d) Project changes involving an increased discharge amount and requiring some technical analysis to assure that beneficial uses are still protected and that original conditions are still valid, or need to be modified. (e) Major project changes requiring an essentially new analysis and re-issuance of WDR's or water quality certification.	Section 2200 (a)(3) (plus $640 base price) (e) New fee assessed per Section 2200 (a)(3)

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

(1) 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 discharges from a municipal separate storm sewer system (MS4) shall pay an annual fee according to the following schedule, plus applicable surcharge(s). The fee shall be based on the population of the public entity according to the most recently published United States Census. For public entities other than cities or counties, the population figure shall be the number of people using the entity's facilities on a daily basis. 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, pays an annual fee.

ANNUAL FEE SCHEDULE FOR AREAWIDE MUNICIPAL STORM WATER SEWER SYSTEM PERMITS AND CO-PERMITTEES	
Population equal to or greater than 250,000	$29,750
Population between 200,000 and 249,999	$26,031
Population between 150,000 and 199,999	$22,461
Population between 100,000 and 149,999	$18,594
Population between 75,000 and 99,999	$14,875
Population between 50,000 and 74,999	$11,156
Population between 25,000 and 49,999	$7,438
Population between 10,000 and 24,999	$4,463
Population between 1,000 and 9,999	$2,975
Less than 1,000 population	$1,488
Statewide Permit Holders	$119,000

(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 costs[9] to review and oversee the implementation of the plan, which shall be calculated using a rate of $150.00 per hour.

(3)(A) 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 $833, plus applicable surcharge(s). An amount equal to the fee prescribed shall be submitted with

[9] These costs include labor, State Board and Regional Board administrative costs, and overhead costs.

the discharger's Notice of Intent (NOI) to be regulated under a 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.

(B) Facilities that satisfy the conditions of a State Board certified Quality Assurance Program, adopted as part of a general NPDES storm water permit or by special resolution of the State Board, may receive up to a 50 percent fee reduction.

(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 $238 plus $24 per acre (rounded to the nearest whole acre and dollar amount), to a maximum fee of $2,618, plus any applicable surcharge, 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 a 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.

(B) Dischargers applying for the Small Construction Rainfall Erosivity Waiver of the General Permit to Discharge Storm Water Associated with Construction Activity (Order No. 2009-0009-DWQ) shall pay an application fee of $200, plus any applicable surcharge(s).

(5) Storm water discharges associated with small linear underground and overhead construction projects, that include but are not limited to, any conveyance, pipe or pipeline for the distribution of any gaseous liquid (including water for domestic municipal services or wastewater), liquescent, or slurry substance; any cable line or wire for the transmission of electrical energy; and any cable line or wire for communications, that are regulated by a general NPDES storm water permit are subject to the following annual fees, plus applicable surcharge(s):

Tier I: $5,950 for each region in which activities subject to the permit are conducted, or
Tier II: A fee as prescribed by (b)(4)(A), based on the area covered by the project.

(6) Discharges associated with mosquito and vector control activities[10] that are regulated by an individual or general NPDES permit adopted exclusively for these purposes, including those issued by a Regional Board, shall pay a fee of $136. Dischargers filing an application for a mosquito and vector control permit shall pay a fee of $136. The fee shall be paid each time an application for initial certification or renewal is submitted. Mosquito and vector control fees are not subject to ambient water monitoring surcharges.

(7) All other NPDES permitted discharges, except as provided in (b)(8), (b)(9), and (c), shall pay a fee according to the following formula:

Fee equals $1,000 plus 1,768 multiplied by the permitted flow, in mgd, with a maximum fee of $250,000 plus any applicable surcharge(s).

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[10] 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.

[11] NPDES permitted industrial discharger(s) means those industries identified in the Standard Industrial Classification Manual, Bureau of the 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).

[12] Threat/complexity categories are listed under (a)(1) of this document.

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

NPDES permitted industrial discharges[11] with a threat/complexity[12] 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. Agencies with multiple facilities under one approved pretreatment program shall pay a $10,000 surcharge per program.

(8)(A) Flow for wet weather municipal facilities[11] will be based on the previous five years' actual monthly average flow[14], as of the date the permit is issued.

(B) Notwithstanding (8)(A), the minimum annual fee for wet weather municipal facilities shall be $20,000.

(9) All other general NPDES permits and de minimis discharges[15] that are regulated by an individual or general NPDES permit, including those issued by a Regional Board, shall pay a fee as follows, plus applicable surcharge(s):

Category 1 - Discharges that require treatment systems to meet priority toxic pollutant limits and that could impair beneficial uses if limits are violated: $5,760.
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: $3,480.
Category 3 - Discharges that require minimal or no treatment systems to meet limits and pose no significant threat to water quality: $1,200.

(c) The annual fees for discharges from confined animal facilities shall be based on the following schedules, plus applicable surcharge(s).

[11] Wet weather municipal facilities are intermittently operated facilities that are designed specifically to handle flows during wet weather conditions.
[14] 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.
[15] 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.

FEEDLOTS	
Type of Facility	
Number of Animals	**Fee**
Cattle or Cow/Calf Pairs	
100,000 or more	$4,200
10,000 to 99,999	$2,100
5,000 to 9,999	$1,120
1,000 to 4,999	$560
Less than 1,000	$280
Calves	
10,000 or more	$4,200
5,000 to 9,999	$2,100
1,000 to 4,999	$1,120
300 to 999	$560
Less than 300	$280
Heifers (not at a dairy)	
10,000 or more	$4,200
5,000 to 9,999	$2,100
1,000 to 4,999	$1,120
300 to 999	$560
Less than 300	$280
Finishing Yards/Auction Yards	
1,000 or more	$1,120
300 to 999	$560
Less than 300	$280

DAIRIES	
Type of Facility	
Number of Animals	**Fee**
Mature Dairy Cattle	
3,000 or more	$5,600
1,500 to 2,999	$3,500
700 to 1,499	$1,680
300 to 699	$840
Less than 300	$420
Goat Dairies	
1,000 or more	$560
Less than 1,000	$280
HOGS	
Swine (> 55 pounds)	
5,000 or more	$2,100
2,500 to 4,999	$1,120
750 to 2,499	$560
Less than 750	$280
Swine (< 55 pounds)	
20,000 or more	$2,100
10,000 to 19,999	$1,120
3,000 to 9,999	$560
Less than 3,000	$280
OTHER	
Horses	
500 or more	$1,120
150 to 499	$560
Less than 150	$280
Sheep or Lambs	
10,000 or more	$1,120
3,000 to 9,999	$560
Less than 3,000	$280

POULTRY		
Number of Animals	**On-Site Discharge Fee**	**Off-Site Discharge Fee**
Layers or Broilers (liquid manure system)		
120,000 or more	$2,800	$980
60,000 to 119,999	$1,400	$700
30,000 to 59,999	$1,050	$490
9,000 to 29,999	$560	$280
Less than 9,000	$280	$0
Non-layers (other than liquid manure system)		
500,000 of more	$2,800	$980
250,000 to 499,999	$1,400	$700
125,000 to 249,999	$1,050	$490
37,500 to 124,999	$560	$280
Less than 37,500	$280	$0
Layers (other than liquid manure system)		
350,000 or more	$2,800	$980
165,000 to 349,999	$1,400	$700
82,000 to 164,999	$1,050	$490
25,000 to 81,999	$560	$280
Less than 25,000	$280	$0
Ducks (other than liquid manure system)		
120,000 or more	$2,800	$980
60,000 to 119,999	$1,400	$700
30,000 to 59,999	$1,050	$490
10,000 to 29,999	$560	$280
Less than 10,000	$280	$0
Ducks (liquid manure system)		
20,000 or more	$1,400	
5,000 to 19,999	$1,050	
1,500 to 4,999	$560	
Less than 1,500	$280	
Turkeys		
200,000 or more	$2,800	$980
100,000 to 199,999	$1,400	$700
55,000 to 99,999	$1,050	$490
16,500 to 54,999	$560	$280
Less than 16,500	$280	$0

(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 $280. The fee shall be paid each time an application for initial certification or renewal is submitted and shall not be subject to ambient water monitoring surcharges.

(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.

(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.

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

Section 2200.2

Persons proposing a new discharge shall submit to the State Board or Regional Board a report of waste discharge. Unless specifically instructed otherwise by the State Board, a fee equal in amount to the annual fee based on the fee schedules in Section 2200 shall be submitted with the discharger's report of waste discharge. This 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 a full annual fee that accompanied the discharger's report of waste discharge. Persons proposing a material change in an existing discharge are not required to submit a fee with the report of waste discharge.

Section 2200.3

Failure to pay the annual fee is a misdemeanor and will result in the State Board or Regional Board seeking the collection of fees through the enforcement provisions provided pursuant to Water Code Section 13261.

Section 2200.4

Any refund made pursuant to Water Code Section 13260(e) or for any other reason, shall withhold sufficient funds to cover actual staff time spent in reviewing the report of waste discharge, which shall be calculated using a rate of $100.00 per hour.

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

Section 2200.5. No Exposure Certification

Dischargers filing an application for a No Exposure Certification (NEC) shall pay a fee of $242 for each facility for which an application is submitted, as prescribed in a general industrial storm water permit. The fee shall be paid each time an application for initial certification or renewal is submitted. NEC fees are not subject to ambient water monitoring surcharges.

Note: Authority cited: Sections 185 and 1058 of the Water Code. Reference: Section 13260.2 of the Water

Section 2200.6. Annual Waiver Fee Schedules

(a) Any person for whom waste discharge requirements have been waived pursuant to Section 13269 of the Water Code shall submit an annual fee to the State Board if a fee is specified for the waiver in this section.

No ambient water monitoring surcharge shall apply to annual fees for waivers as specified in this section.

(b) Annual fees for waivers for discharges from agricultural land adopted by the Regional Water Quality Control Boards for the Central Coast, Central Valley, or Los Angeles Regions shall be as follows:

(1) Tier I: If a discharger is a member of a group that has been approved by the State Board to manage fee collection and payment, then the fee shall be $100 per group plus $0.12 per acre of land.

(2) Tier II: If a discharger is a member of a group that has been approved by the State Board but that does not manage fee collection and payment, then the fee shall be $100 per farm plus $0.20 per acre of land.

(3)(A) Tier III: Except as provided in (b)(3)(B), if a discharger is not a member of a group that has been approved by the State Board, the following fee schedule applies:

Acres	Fee Rate	Min Fee	Max Fee
0-10	$300 + $10/Acre	$300	$400
11-100	$750 + $5/Acre	$805	$1,250
101-500	$2,000 + $2.5/Acre	$2,253	$3,250
501 or More	$4,000 + $2/Acre	$5,002	$6,500

(B) Annual fees for waivers for discharges of wastes from water districts subject to Order No. R5-2006-0054 issued by the Central Valley Regional Water Quality Control Board shall be $4,500.

(c) Upon approval by the Regional Board to join a group subject to waivers of discharges from agricultural land, the discharger shall submit to the State Water 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 responding to a California Water Code §13267 Order 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.

(d) For purposes of this section, the word “farm” and the word “discharger” refer to any person who is subject to Order No. R3-2004-0117 issued by the Central Coast Regional Water Quality Control Board, Order No. R4-2005-0080 issued by the Los Angeles Regional Water Quality Control Board, or Amended Order No. R5-2006-0053 and Order No. R5-2006-0054 issued by the Central Valley Regional Water Quality Control Board.

Note: Authority cited: Sections 185 and 1058 of the Water Code. Reference: Section 13269 of the Water Code.