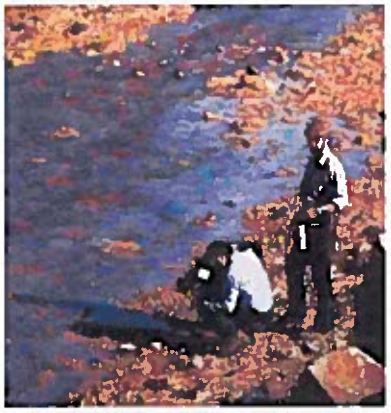
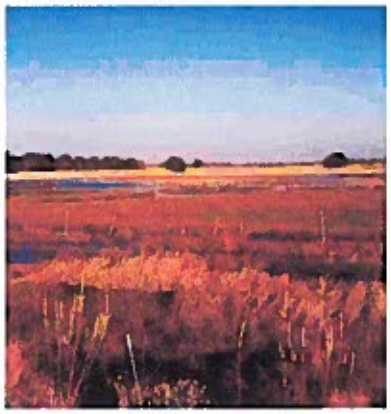
FACT SHEET





POLICY FOR THE IMPLEMENTATION AND ENFORCEMENT OF THE NONPOINT SOURCE POLLUTION CONTROL PROGRAM

(NPS Implementation and Enforcement Policy)

Why Is The NPS Implementation And Enforcement Policy Necessary?

- California's most serious water quality problem is NPS pollution. Polluted runoff from nonpoint sources accounts for more than 76 percent of the water bodies where Total Maximum Daily Loads (TMDLs) are required.

- The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) was amended in 1999 to require the SWRCB to develop guidance to enforce the state's NPS pollution control program. The SWRCB complied by adopting the NPS Implementation and Enforcement Policy on May 20, 2004. The Office of Administrative Law approved the policy on August 26, 2004.

What Does The Policy Require The RWQCBs To Do?

- The RWQCBs must regulate all nonpoint sources of pollution, using the administrative permitting authorities provided by the Porter-Cologne Act.

The permitting authorities include but are not limited to:

- Basin Plan prohibitions
- Waste Discharge Requirements (WDRs)
- Waivers of WDRs. In addition, Porter-Cologne requires that:
  - Waivers must be conditional and may be terminated at any time.
  - Waivers must be consistent with the public interest and any applicable state or regional water quality control plan.
  - Waivers may not exceed five years, but may be renewed following consideration of the necessity for issuing WDRs.
  - Waivers must be enforced.

What Are Dischargers Required To Do?

- Dischargers must comply with the administrative permits issued by the RWQCBs by participating in the development and implementation of NPS pollution control programs, either individually or collectively as participants in third-party coalitions.

- NPS pollution control implementation programs may be developed by a RWQCB, an individual discharger, or a discharger coalition in cooperation with a third-party representative, organization or government agency. The third-party role is restricted to entities that are not actual dischargers under RWQCB/SWRCB permitting and/or enforcement jurisdiction.

Water Boards

POLICY FOR THE IMPLEMENTATION AND ENFORCEMENT OF THE NONPOINT SOURCE POLLUTION CONTROL PROGRAM

- All NPS pollution control programs must meet the requirements of the following (Five) Key Elements described in the NPS Implementation and Enforcement Policy. Each implementation program must be endorsed or approved by the appropriate RWQCB.

- **Key Element 1:** A NPS control implementation program's ultimate purpose must be explicitly stated and at a minimum address NPS pollution control in a manner that achieves and maintains water quality objectives.

- **Key Element 2:** The NPS pollution control implementation program shall include a description of the management practices (MPs) and other program elements expected to be implemented, along with an evaluation program that ensures proper implementation and verification.

- **Key Element 3:** The implementation program shall include a time schedule and quantifiable milestones, should the RWQCB so require.

- **Key Element 4:** The implementation program shall include sufficient feedback mechanisms so that the RWQCB, dischargers, and the public can determine if the implementation program is achieving its stated purpose(s), or whether additional or different MPs or other actions are required.

- **Key Element 5:** Each RWQCB shall make clear, in advance, the potential consequences for failure to achieve an NPS implementation program's objectives, emphasizing that it is the responsibility of individual dischargers to take all necessary implementation actions to meet water quality requirements.

What Kind Of Enforcement Does The Policy Require?

- Individual dischargers, including both landowners and operators, continue to bear ultimate responsibility for complying with a RWQCB's water quality requirements and orders. All RWQCB enforcement actions taken will be taken against non-compliant individual dischargers, not third–party representatives. All enforcement actions taken shall be consistent with the SWRCB Enforcement Policy (SWRCB 2002).

Find out more about the
Nonpoint Source Pollution Control Program
www.waterboards.ca.gov/waterquality

Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS