

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections:

Amend section: 1062

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

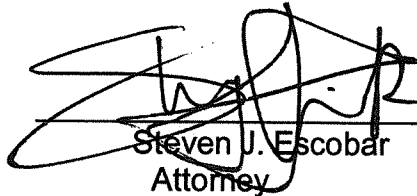
OAL Matter Number: 2016-0107-01E

OAL Matter Type: Emergency (E)

On December 1, 2015, the State Water Resources Control Board (the "Board") adopted Resolution 2015-0073, which revised by emergency regulations the water rights fee schedule in section 1062 in title 23 of the California Code of Regulations to include a new fee for temporary permits under Water Code section 1425 for the diversion of water to underground storage during high flow events.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code. This emergency regulatory action is effective on 1/15/2016 and will remain in effect until revised by the Board pursuant to Water Code section 1530.

Date: January 15, 2016



Steven J. Escobar
Attorney

For: **DEBRA M. CORNEZ**
Director

Original: Thomas Howard
Copy: Glen Osterhage

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2016-0107-01E
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JAN 15 2016

1:45 PM

2016 JAN -7 P 2:59

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Emergency Regulation Amending FY 15-16 Water Rights Fee Schedule	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2015-1021-01; 14-1021-01E, 13-1025-01E;
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) 12-1106-02E; 11-1014-02E	

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND Division 3, Chapter 5, Section 1062
	REPEAL
TITLE(S) Title 23	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input checked="" type="checkbox"/> Other (Specify) <u>Water Code section 1530</u>		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Glen Osterhage	TELEPHONE NUMBER (916) 341-5032	FAX NUMBER (Optional) (916) 341-5248	E-MAIL ADDRESS (Optional) Glen.Osterhage@waterboards.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 12-31-15
TYPED NAME AND TITLE OF SIGNATORY Thomas Howard, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 15 2016

Office of Administrative Law

Cal. Code Regs., tit. 23, § 1062

§ 1062. Filing Fees for Water Right Applications.

(a) A person who files a water right application shall pay to the board a filing fee as follows:

(1)(A) Except as provided in subparagraphs ~~(B) and (C)~~, (B) through (E), the fee for a water right application shall be \$1,000, plus \$15 for each acre-foot that the applicant seeks

to divert in excess of 10 acre-feet. The total fee shall not exceed \$498,665, plus any additional fee due pursuant to subparagraphs (2) and (3).

(B) At a facility where a small hydroelectric generating facility meets the criteria for a Class 28 categorical exemption under the California Environmental Quality Act, as established in California Code of Regulations, title 14, section 15328, the fee shall be \$1,000.

(C) The fee for an application for a temporary permit filed under Water Code section 1425, other than a permit described in subparagraph (D) or (E) of this subdivision, shall be the greater of either (i) 50 percent of the fee calculated under subparagraph (A), above, or (ii) \$2,000;.

(D) except that the The fee for an application for a temporary permit under Water Code section 1425 for ~~at~~ a small hydroelectric generating facility that meets the criteria for a Class 28 categorical exemption under the California Environmental Quality Act, as established in California Code of Regulations, title 14, section 15328, shall be \$1,000. The filing fee includes the annual permit fee if a temporary permit is issued.

(E) The fee for an application for a temporary permit, or renewal of a temporary permit, filed under Water Code section 1425 that is solely for purposes of diverting water from high flow events to underground storage for later beneficial use shall be \$100 plus \$1.00 for every 100 acre-feet of water the applicant diverts to underground storage under the permit in excess of 10,000 acre-feet. The portion of the application fee based on the amount diverted shall be due within 30 days of actual diversion, and shall be accompanied by a report of the amount actually diverted.

(2) If a water right application is accompanied by a petition to revise a declaration of fully appropriated stream systems, then \$10,000 shall be added to the fee.

(3) If a water right application is accompanied by a petition for assignment of a state-filed application pursuant to Water Code section 10504, then \$5,000 shall be added to the fee.

(b) A person who filed a water right application on or after July 1, 2003, and prior to January 1, 2004, shall pay a supplemental filing fee equal to the difference between the filing fee already paid and the amount due pursuant to the regulation in effect on January 1, 2004.

(c) The application filing fee includes a non-refundable \$250 initial review fee of \$250 or the amount of the application fee, whichever is less.

Note: Authority cited: Sections 1058 and 1530, Water Code.

Reference: Sections 1425, 1426, 1525, ~~and~~ 1535 and 1551, Water Code.