

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2008-0074**

ADOPT EMERGENCY REGULATIONS AMENDING WATER RIGHT AND WATER QUALITY
CERTIFICATION FEE SCHEDULES IN TITLE 23, DIVISION 3,
OF THE CALIFORNIA CODE OF REGULATIONS

WHEREAS:

1. Pursuant to Water Code section 1058, the State Water Resources Control Board (State Water Board) has the authority to adopt regulations to carry out its powers and duties under the Water Code.
2. Chapter 8 (commencing with section 1525) of part 2 of division 2 of the Water Code and Water Code section 13160.1 require the State Water Board to adopt emergency regulations establishing and revising fees to be deposited in the Water Right Fund in the State Treasury including fees for water quality certification. The emergency regulations must be adopted to implement the fee revenue requirement in the Budget Act. The emergency regulations may include provisions concerning the administration and collection of the fees.
3. The State Water Board must set a fee schedule that will generate revenues to support expenditures in the amount the Budget Act sets for specified regulatory activities. In Fiscal Year (FY) 2008-2009, the Budget Act authorizes the expenditure of \$11.835 million to support the water right program, including the water right fee collection efforts of the State Board of Equalization and oversight of the program provided by the California Environmental Protection Agency. Of this amount, \$7.84 million is appropriated from the Water Rights Fund, which is supported by fee revenues.
4. The Budget Act delegates to the Department of Finance the authority to make specified adjustments to the amounts specified in the Budget Act. The State Water Board has taken into account the anticipated adjustments that the Department of Finance will make under its delegated authority in determining the amount of fee revenues, consistent with the Budget Act, that are required to support the water right program.
5. The Water Code authorizes the State Water Board to adjust the fee schedule annually to account for over- or under-collection of fee revenues in previous years. For FY 2008-2009, fee revenues from FY 2007-2008 plus funds carried over from previous years resulted in more funding being available in the Water Right Fund than was necessary to support expenditures at the level set forth in the Budget Act in FY 2007-2008. The State Water Board has considered adjustments for nonpayment of fees and the surplus of revenue in the Water Right Fund at the end of FY 2007-2008 in determining the amount of annual fees that must be billed to collect the amount of revenue set forth in the Budget Act for FY 2008-2009.
6. State Water Board staff prepared recommended revisions to the State Water Board's water right and water quality regulations to implement the Water Code and the requirements of the Water Code and the Budget Act.
7. The water right and water quality certification fee regulations and schedules will be contained in division 3 of title 23 of the California Code of Regulations.

8. The State Water Board provided an opportunity for public comment on the proposed regulations and considered the regulations at a public meeting conducted on October 7, 2008.
9. These emergency regulations will take effect upon filing with the Secretary of State or the effective date of the Budget Act of 2008, whichever occurs later.

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts [emergency regulations revising Division 3 of Title 23 of the California Code of Regulations](#) as recommended by staff to implement the Water Code and provisions of the Budget Act of 2008.

CERTIFICATION


The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 7, 2008.

AYE: Chair Tam M. Doduc
Vice Chair Gary Wolff, P.E., Ph.D
Arthur G. Baggett, Jr.
Charles R. Hoppin
Frances Spivy-Weber

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board