

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION 2009-0071**

ADOPTING EMERGENCY REGULATIONS AMENDING WATER RIGHTS 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 5 of the Water Code (commencing with section 1525) 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 Rights 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) 2009-2010, the Budget Act authorizes the expenditure of \$11.625 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, \$7.44 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. Taking into account the anticipated adjustment that the Department of Finance will make under this delegated authority, the Budget Act requires the water right program to be supported by fee revenues amounting to \$7.44 million.
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 2009-2010, fee revenues from FY 2008-2009 plus funds carried over from previous years resulted in more funding being available in the Water Rights Fund than was necessary to support expenditures at the level set forth in the Budget Act in FY 2008-2009. Given adjustments for nonpayment of fees and the surplus of revenue in the Water Right Fund at the end of FY 2008-2009, the State Water Board must bill \$6.68 million in annual fees to collect the amount of revenue set forth in the Budget Act for FY 2009-2010.
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 September 15, 2009.
9. These emergency regulations will take effect upon filing with the Secretary of State or the effective date of the Budget Act of 2009, 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 2009.

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 September 15, 2009.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc

NAY: None

ABSENT: Board Member Arthur G. Baggett, Jr.

ABSTAIN: None



Jeanine Townsend
Clerk to the Board