

Title 23. Division 3. Chapter 28. Certifications. Article 1. General Provisions

§ 3833. Application Fees and Refunds.

- (a) Each application for a Tax Certification shall be accompanied by a fee of \$200.
- (b) Each application for a Water Quality Certification shall be accompanied by a fee deposit for processing the application. Processing the application includes evaluating the activity proposed in the application and determining whether the certification should be issued and what conditions, if any, should be imposed on the certification.
 - (1) If the activity subject to certification includes, or involves construction or modification of facilities for the purpose of, producing hydroelectric power, and the activity or facilities require the issuance or amendment of a FERC license, a deposit in the amount of any annual fees due under section 3833.1 that have not yet been paid shall accompany the application.
 - (2) If the activity is not subject to subsection (b)(1) of this section but is subject to subparagraph (b)(1)(B) of section 3855, then an initial deposit shall accompany the application, and subsequent deposits shall be required as necessary to cover the state board's reasonable costs of processing the application as follows:
 - (A) An initial deposit of \$1,000 shall accompany all applications.
 - (B) If the state board's reasonable costs exceed \$750, the applicant shall provide a second deposit in the amount of the unpaid reasonable costs, if any, plus \$5,000, or a lesser amount estimated by the state board to be necessary to complete processing the application.

The state board may require additional deposits when the state board's reasonable costs exceed the total amount previously deposited less \$2,000. The additional deposits shall be in the amount of the state board's unpaid reasonable costs, if any, plus \$5,000, or a lesser amount that the state board estimates to be necessary to complete processing the application. The state board shall notify the applicant by certified mail of any deposits required under this subsection (b)(1)(B), and the deposit shall be due within sixty (60) days from receipt of the notice.
 - (C) After the state board acts on the application, or if the applicant withdraws the application, the applicant shall make a final payment so that the total fee paid by the applicant equals the reasonable costs incurred by the state board in processing the application. The state board shall notify the applicant by certified mail if the applicant owes a final payment on the application fee, and the final payment shall be due within sixty (60) days from receipt of the notice. If the deposit(s) exceed the state board's reasonable costs, the state board shall refund the excess amount to the applicant within sixty (60) days of final action on the application.

(D) For the purposes of this subsection (b)(2), the reasonable costs of processing the application include the state board's reasonable costs incurred in anticipation of the filing of an application, including participation in pre-filing consultation and any investigations or studies to evaluate the impacts of the proposed activity, to the extent that these costs are reasonably necessary to process the subsequently filed application. The state board's reasonable costs include any reasonable costs of processing the application incurred by a regional board at the state board's request. The state board may seek reimbursement of costs pursuant to this subsection (b)(2) only after the applicant has submitted an application to the state board.

(E) If the activity subject to water quality certification is also the subject of a pending application, petition, or registration subject to section 1062, 1064, 1067 or 1068 of this division, and the application, petition, or registration is filed before or simultaneously with the application for certification, the applicant shall pay only the fees imposed under chapter 5 (commencing with section 1061) of this division, and no additional deposit is required under this subsection (b)(2).

(3) If the activity is not subject to Subsection (b)(1) or (b)(2) of this Section, then:

(A) A deposit consisting of the appropriate application fee determined from Section 2200, Title 23, of the California Code of Regulations shall accompany all applications.

(B) The total fee, including deposit, for taking any certification action shall be the appropriate amount determined from Section 2200, Title 23, of the California Code of Regulations.

(C) If waste discharge requirements or a waiver of waste discharge requirements are to be issued in conjunction and simultaneously with taking action on the application for water quality certification, or the project is to be regulated through general waste discharge requirements or general waivers thereof, the applicant shall pay only one fee.

(4) If a revised application for water quality certification is filed for the same project that had been previously denied certification without prejudice or when an original application is voluntarily withdrawn by the applicant pursuant to Subsections 3835(b), 3836(b), 3836(c), or 3838(c) of this Chapter, the revised application shall be accompanied by any unpaid fee or portion thereof for the original application. Except as provided in this Section, no additional fee shall be required for the revised application if:

(A) the revised application is filed within twelve (12) months of the denial without prejudice or voluntary application withdrawal,

(B) the revised application package corrects the procedural problems which caused the original denial without prejudice or voluntary application withdrawal, and

(C) the project has not changed significantly in scope or potential for adverse impact (i.e., no further technical review is necessary).

(c) The fee for processing an application if a specific fee is not established under this section shall be set at the hourly rate specified in Section 2200.4, Title 23, of the California Code of Regulations. An initial deposit of \$500 shall accompany all such applications.

(d) The fees described in this Section do not include the costs of preparation of any CEQA document, should one be required.

(e) Denial of certification shall not be grounds for refund of any part of a certification application fee.

(f) If the applicant is a federal agency, the fees described in this Section apply to the extent authorized by federal law.

Note: Authority cited: Sections 1058 and 13160.1, Water Code. Reference: 26 USC Section 169, 40 CFR Section 20; 33 USC Section 1341; and Sections 1060, 13160 and 13160.1, Water Code.