
State Water Resources Control Board

REVISED

NOTICE OF PROPOSED EMERGENCY RULEMAKING

Water Rights Fees for Fiscal Year 2024-25

Amendments to Division 3 of Title 23 of the California Code of Regulations

Required Notice of Proposed Emergency Action

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law, the adopting agency must provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulation as set forth in Government Code section 11349.6.

Proposed Emergency Action

Effective January 1, 2004, the Water Code was amended to require the State Water Resources Control Board (State Water Board or Board) to adopt emergency regulations revising and establishing fees to be deposited in the Water Rights Fund (WRF) in the State Treasury (Wat. Code, §§ 1525, 1529.5, 1530, 1551). The Water Code requires the State Water Board to review and revise the fee schedule each fiscal year as necessary to conform to the amounts appropriated by the Legislature for expenditure, from the WRF for support of water rights program activities.

On September 18, 2024, the State Water Board adopted emergency regulations amending water rights fee schedules in title 23, sections 1042, 1044, 1062, 1063, 1064, 1066, 1068 and 3833 of the California Code of Regulations.

Proposed Text of Emergency Regulation

See the attached proposed text of the emergency regulation.

Finding of Emergency (Gov. Code, § 11346.1, subd. (b))

The State Water Board has a mandatory legal duty to assess fees and to adopt the schedule of fees by emergency regulation (Wat. Code, §§ 1525, 1529.5, 1530). Water

Code section 1530, subdivision (b) states that “[t]he adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary

for the immediate preservation of the public peace, health, safety, and general welfare.” Notwithstanding chapter 3.5 (commencing with section 11340) of part 1 of division 3 the Government Code, the emergency regulation shall remain in effect until revised by the State Water Board (Wat. Code, § 1530).

Moreover, the State Water Board finds that the proposed amendments to the Board’s fee regulations must be adopted immediately in order to allow for the timely collection of fees to conform to amounts appropriated by the Legislature from the WRF for the support of water right program activities. Without fee revenue in the amounts appropriated, much of the water rights program, and critical work pursuant to the Sustainable Groundwater Management Act, would be in danger of being shut down. Continued administration of these programs is essential to the economy and environment of the State of California. Without funding for the programs, critical water transfers and changes in water project operations would not be approved, the security of water rights needed for the state’s water supply projects would be undermined, and the environment would be threatened. New water supply projects for irrigation or municipal use, and modification of existing projects involving changes in permitted or licensed water rights, could not move forward. The water rights and SGMA programs also are important for the protection of public health. For example, the water rights program applies and enforces Bay-Delta water quality standards that protect the drinking water supplies for 22 million Californians. In sum, adoption of the proposed regulation is necessary for the immediate preservation of the public health and welfare.

The State Water Board is unable to address the situation through non-emergency regulations because, as discussed above, it has a mandatory legal duty to adopt the fee schedules by emergency regulation.

Authority and Reference (Gov. Code, § 11346.5, subd. (a)(2))

Water Code sections 1058, 1529.5, 1530, 5107, 5208, 10736 and 13160.1 provide authority for the emergency regulation. The emergency regulation implements, interprets, or makes specific 26 U.S.C. Section 169, 40 CFR Section 20; 33 U.S.C. Section 1341; Water Code sections 348, 386, 1228.3, 1228.5, 1228.7, 1425, 1426, 1525, 1528, 1529.5, 1530, 1535, 1536, 1537, 1551, 1552, 5202, 10735.4, 10735.6, 10736, 13160 and 13160.1; and Health and Safety Code section 116275.

Water Code section 1530 provides deemed emergency regulation authority for the sections adopted or amended as part of this rulemaking, stating “[t]he adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.”

Informative Digest (Gov. Code, § 11346.5, subd. (a)(3))

Under the Water Code and existing regulations, a person filing a water right application, petition, registration, groundwater recordation or other filing, must pay a filing fee to the State Water Board. Existing regulations also establish annual fees for water rights permits, licenses, registrations, water leases, applications and requests for water quality certification. In addition, the existing regulations establish requirements for filing a petition for reconsideration of a fee determination made by the State Water Board. The water rights fee regulations are contained in division 3 of title 23 of the California Code of Regulations. An overview of the objectives and benefits of the regulations is provided above, under “Finding of Emergency.”

The proposed emergency regulation would adjust the fee schedules in FY 2024-25 to: (1) increase water right application, permit and license fees to conform to amounts appropriated by the Legislature from the WRF, (2) adjust the fee cap on change petitions involving transfers based on the California consumer price index, (3) amend the following fees: applications [§1062(a)(1)(A)]; application for small hydroelectric [§1062(a)(1)(B)]; application for 180-day temporary permit filed pursuant to Water Code section 1425 other than for diversion to underground storage during high flow events [§1062(a)(1)(C)]; application for 180-day Temporary Permit for Small Hydroelectric that meet criteria established in title 14, section 15328 [§1062(a)(1)(D)]; application for 180-day Temporary Permit filed pursuant to Water Code section 1425 to Divert to Underground Storage During High Flow Events [§1062(a)(1)(E)]; application for 5-year Temporary Permit filed pursuant to Water Code section 1433 to Divert to Underground Storage; requests to split a pending application [§1062(a)(1)(G)]; petition to Revise Declaration of Fully Appropriate Streams filed with water right application [§1062(a)(2)]; petition for Assignment of a State-filed application filed with water right application [§1062(a)(3)]; request for Release from Priority of a State-filed application [§1064(a)(3)]; (4) amend registration program fees for small domestic or livestock pond amendments and for changing small irrigation use registrations for cannabis cultivation to another use [§1064(a)(4); §1068(e)], (5) remove subdivision (b)(2) of title 23, section 3833 to allow applicants to more easily predict fees using section 2200, (6) assess a fee for certain late annual reports based on the size of the water right and degree of lateness [§1066(c)], (7) clarify how the requirement in the SGMA regulations that measuring devices be calibrated at the time they are installed can be met [§1042(a)(3)], and (8) clarify the qualifications to be considered a “low-income resident,” for purposes of SGMA fees and small domestic use registration fees [§1044(c); §1068(b)(5)].

There is no comparable federal statute or regulation. After conducting a review for any regulations that would relate to or affect this area, the Board has determined that the proposed regulation is not inconsistent or incompatible with existing state regulations.

Other Matters Prescribed by Statute (Gov. Code, § 11346.5, subd. (a)(4))

No other matters are prescribed by statute or regulation applicable to the State Water Board’s water right fees.

Local Mandate (Gov. Code, § 11346.5, subd. (a)(5))

The proposed emergency regulation does not impose a mandate on local agencies or school districts because it does not mandate a new program or a higher level of service of an existing program. The fee schedule applies equally to public and private entities and is not unique to local government. No state reimbursement is required by part 7 (commencing with section 17500) of division 4 of the Government Code.

Estimate of Cost or Savings (Gov. Code, § 11346.5, subd. (a)(6))

Under the proposed emergency regulation's increase in annual permit and license fees, most local and state agencies will pay more in annual fees than last year. The California Department of Water Resources holds water rights for projects associated with the State Water Project for which the increased cost will be approximately \$206,383 for FY 2024-25. All other state agencies with water rights will only incur increased costs for FY 2024-25 of less than \$62 per water right and should be able to absorb these costs within their existing budgets. Furthermore, state and local agencies may also pass their costs to their contractors or constituents.

Under the proposed emergency regulations, there will be an increase in the caps for application and petition filing fees. As a result, local and state agencies may be subject to increased costs. However, it is impossible to predict what filings the State Water Board will receive, though it can be assumed that state and local agencies are unlikely to submit new water right applications or petitions for amounts exceeding the current filing fee cap. If a state or local agency were to be subject to fees greater than the current filing fee cap, they typically will pass along all water right fees to the contractors or otherwise recover such costs. Therefore, it is unlikely that any state or local agencies will see increased costs due to the increase in caps on the application and petition filing fees.

There is no cost to any local agency or school district for which reimbursement is required or other non-discretionary cost or savings imposed on local agencies.

There is no cost or savings in federal funding to the state.

23 CCR § 1042
§ 1042. Meters.

(a) A measurement device must be all of the following to be a “meter” used to measure groundwater extractions from the well for purposes of section 1040, subdivision (a)(1)(A):

(1) Equipped with a totalizer that:

(A) Records the total volume of groundwater extracted from the well.

(B) Records readings in units of acre-feet, cubic feet, or gallons.

(C) Uses a sufficient number of digits or multipliers to prevent rollover or inaccurate readings.

(2) Permanently attached to the well discharge pipe between the point of extraction and the point of delivery for beneficial use. The totalizer must be situated between the point of extraction and the point of delivery with no intervening diversions or bends in the discharge pipe.

(3) Calibrated to an accuracy of within \pm five (5) percent by volume. The calibration must be conducted by a qualified individual upon installation and at least once every five years thereafter, or more frequently if necessary to ensure accuracy is maintained. Proof of calibration must also be submitted from the time the totalizing flow meter is installed, and every five years thereafter. A pre-calibrated flow-meter need not be inspected upon installation. For purposes of this paragraph, a meter installed prior to the effective date of the amendment to this section adding this sentence may be considered in compliance with the requirement for calibration upon installation if the person required to report does not have evidence of calibration at installation and provides proof of calibration within the one year from when reporting under Water Code section 5202 is triggered or the well owner or operator becomes subject to metering requirements, whichever comes first.

(4) Installed, maintained, operated, inspected, and monitored to ensure the accuracy requirement of subdivision (3).

(5) Installed in a manner such that it is readily accessible for reading, inspection, testing, repair and replacement.

(6) Reasonably accessible and available for inspection by an authorized representative of the board upon request.

(7) The totalizer must be incapable of moving backwards or otherwise deviating from its actual value without obvious and apparent signs of tampering.

(b) The board may conduct a field inspection or request additional information from the extractor to determine if a meter is properly installed and meets the requirements of this section. Failure to provide reasonable access for an inspection or to provide records of calibration by a qualified individual upon request by the board is a sufficient basis for the board to determine that a meter has not been used to measure groundwater extractions for purposes of section 1040, subdivision (a)(1)(A).

Authority cited: Sections 1058, 1529.5, 1530, 5107, 5208 and 10736(d)(3), Water Code.

Reference: Sections 1529.5, 1530 and 5202(f), Water Code.

23 CCR § 1044

§ 1044. Administration of Fees.

(a) Annual filing fees shall be based on the regulations in effect at the time of filing. Annual filing fees for the report for the prior water year are due and payable on April 1, or thirty days after the Board issues an invoice, whichever is later.

(b) The Board may waive requirements under this article for any person or class of extractor if the waiver is determined by the board to advance implementation of Part 2.74 of Division 6 of the Water Code. Any person subject to this article may request a waiver, provided that the person is in compliance with the groundwater extraction reporting requirements described in Water Code section 5202, subdivision (a) and is a low-income resident, public school, or a public water system or state small water system serving a disadvantaged community where the primary purpose of providing water is for human consumption, cooking and sanitary purposes.

(c) For purposes of this section, a low-income resident is: (1) someone whose household income is 200 percent or less of the federal poverty level (for one-person households, program eligibility shall be based on two-person household guideline levels) or (2) someone who is enrolled in a qualified income-based public assistance program.

(d) For purposes of this section, a public water system has the same meaning as defined in Health and Safety Code section 116275, subdivision (h).

(e) For purposes of this section, a disadvantaged community has the same meaning as defined in California Code of Regulations, title 22, section 64300, subdivision (a).

(f) Any waiver request must be submitted to the Board within 30 days of when the fee is due pursuant to subdivision (a) of this section for the waiver to apply to that billing and must be supported by adequate substantiation of eligibility for the annual fee waiver. For any waiver request supported by adequate substantiation of eligibility that is submitted to the Board more than 30 days after the fee is due pursuant to subdivision (a) of this section, the reduction shall take effect in the subsequent fiscal year.

Authority cited: Sections 1058, 1529.5, 1530 and 10736, Water Code.

Reference: Section 116275, Health and Safety Code; and Sections 1525, 1536, 1537 and 5202, Water Code.

23 CCR § 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) through (J), the fee for a water right application shall be ~~as follows: \$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 \$648,914, plus any additional fee due pursuant to subparagraphs (2) and (3).~~

- (i) For applications requesting authorization to divert less than 10 acre-feet per year, \$5,000;
- (ii) For applications requesting authorization to divert 10 acre-feet or more per year but less than 200 acre-feet per year, \$40,000;
- (iii) For applications requesting authorization to divert 200 acre-feet or more per year but less than 1,000 acre-feet per year, \$43,000;
- (iv) For applications requesting authorization to divert 1,000 acre-feet or more per year but less than 5,000 acre-feet per year, \$55,000;
- (v) For applications requesting authorization to divert 5,000 acre-feet or more per year but less than 10,000 acre-feet per year, \$117,000;
- (vi) For applications requesting authorization to divert 10,000 acre-feet or more per year but less than 15,000 acre-feet per year, \$192,000;
- (vii) For applications requesting authorization to divert 15,000 acre-feet or more per year but less than 20,000 acre-feet per year, \$266,000;
- (viii) For applications requesting authorization to divert 20,000 acre-feet or more per year but less than 25,000 acre-feet per year, \$341,000;
- (ix) For applications requesting authorization to divert 25,000 acre-feet or more per year but less than 30,000 acre-feet per year, \$415,000;
- (x) For applications requesting authorization to divert 30,000 acre-feet or more per year but less than 35,000 acre-feet per year, \$489,000;
- (xi) For applications requesting authorization to divert 35,000 acre-

feet or more per year but less than 40,000 acre-feet per year, \$564,000;

(xii) For applications requesting authorization to divert 40,000 acre-feet or more per year but less than 200,000 acre-feet per year, \$649,000;

(xiii) For applications requesting authorization to divert 200,000 acre-feet or more per year, \$811,000.

(i)

(B) In addition to the fees identified in subparagraph (A), a complexity surcharge of 20 percent of the application fee shall be added for:

(i) Applications proposing to divert from a location(s) within the watershed of the Sacramento-San Joaquin Bay Delta;

(ii) Applications proposing to divert by means of an onstream dam(s) located within the geographic area covered by the Policy for Maintaining Instream Flows in Northern California Coastal Streams.

(C) If, after an application requesting authorization to divert 40,000 acre-feet or more per year has been filed but before a permit has been issued, an applicant requests splitting the application into separate applications, the request shall be accompanied by the total application fee pursuant to section 1062(a)(1) for all separate applications generated by the proposed split less the amount of the original application fee that was paid.

(D) At a facility where a small hydroelectric generating facility meetings 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 application fee shall be \$1,000 the fee identified in subparagraph (A)(i) for projects to divert below 10 acre-feet per year, as modified pursuant to subparagraph (B) if applicable, and the fee identified in subparagraph (A)(ii) for projects to divert 10 acre-feet per year or more, as modified pursuant to subparagraph (B) if applicable.

(E) The fee for an application for a temporary permit filed under Water Code section 1425, other than a permit described in subparagraph (F) or (G) of this subdivision, shall be the greater of either (i) 50 percent of the fee calculated under subparagraph (A), as modified pursuant to subparagraph (B) if applicable, above, or (ii) \$2,000.

(~~D~~E) The fee for an application for a temporary permit under Water Code section 1425 for 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 50 percent of the fee identified in subparagraph (A)(i) for projects to divert below 10 acre-feet per year, as modified pursuant to subparagraph (B) if applicable, and 50 percent of the fee identified in subparagraph (A)(ii) for projects to divert 10 acre-feet per year or more, as modified pursuant to subparagraph (B) if applicable\$1,000. The filing fee includes the annual permit fee if a temporary permit is issued.

(~~G~~E) The fee for an application for 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 ~~the lesser of either (i) the fee calculated pursuant to subparagraph (C), above, or (ii) \$5,000 plus \$0.10 for every acre-foot of water applied for~~ 15 percent of the fee identified in subparagraph (A), as modified pursuant to subparagraph (B) if applicable, for applications submitted at least 120 days prior the date requested for commencement of diversion, and 25 percent of the fee identified in subparagraph (A), as modified pursuant to subparagraph (B) if applicable, for applications submitted less than 120 days prior the date requested for commencement of diversion. ~~For renewal of a temporary permit issued pursuant to this subparagraph, where the renewal proposes an identical project and is filed within one year of issuance of the prior temporary permit, the fee for renewal of a temporary permit shall be \$1,500 plus \$0.20 per acre-foot of water actually diverted under the renewed temporary permit. The portion of the application fee based on the amount diverted shall be due within 30 days of permit expiration, and shall be accompanied by a report of the amount actually diverted.~~

(~~H~~F) The fee for an application for an appropriative right to divert water to underground storage that meets the criteria of this subparagraph shall be 75 percent of the fee calculated pursuant to ~~subdivision (a)(1)~~ subparagraphs (A), (G), and (I), as modified pursuant to subparagraph (B) if applicable. To be eligible for this reduced fee:

- (i) The application must be for diversion of water only between

December 1 and March 31;

(ii) The application must be primarily for diversion to underground storage in a groundwater basin identified in Bulletin 118;

(iii) The applicant must be a Groundwater Sustainability Agency or local agency as defined in Water Code section 10721;

(iv) The applicant has completed all environmental documents required under the California Environmental Quality Act (CEQA); and

(v) The application proposes diversions only when either the streamflow at the point(s) of diversion is above the 90th percentile calculated from gage data during the period-of-record and the diversion rate is limited to 20 percent of the total streamflow, or when flows in the source waterbody at or near the point of diversion exceed thresholds that trigger flood control actions necessary to mitigate threats to human health and safety according to established written flood management protocols adopted by a flood control agency. Notwithstanding subparagraph (i), an application proposing diversion when flows in the source waterbody at or near the point of diversion exceed thresholds that trigger flood control actions necessary to mitigate threats to human health and safety according to established written flood management protocols adopted by a flood control agency is not limited to diversion of water only between December 1 and March 31 in order to be eligible for this reduced fee.

~~(G)~~ The fee for an application for a temporary permit filed under Water Code section 1433.1 that is solely for purposes of diverting water to underground storage for later beneficial use shall be **15** percent of the fee identified in subparagraph (A), as modified pursuant to subparagraph (B) if applicable, for applications submitted at least 120 days prior the date requested for commencement of diversion, and **25** percent of the fee identified in subparagraph (A), as modified pursuant to subparagraph (B) if applicable, for applications submitted less than 120 days prior the date requested for commencement of diversion ~~comprised of an initial filing fee equal to the lesser of either (i) five times the fee calculated pursuant to subparagraph (C), above, or (ii) \$11,000 plus \$0.10 for every acre-foot of water applied for, plus, in each fiscal year after the fiscal year in which the initial filing fee is due, \$0.20 per acre-foot of water actually diverted. The~~

~~portion of the fee based on the amount actually diverted shall be due within 30 days after the end of the diversion season, and shall be accompanied by a report of the amount actually diverted.~~

(HJ) An applicant for a temporary permit filed under Water Code section 1433.1 shall also pay, in addition to the fee required by ~~subdivision (a)(1)subparagraph (G)~~ of this section, a fee for the California Department of Fish and Wildlife review of the application as follows:

(i) For an application to divert less than 10,000 acre-feet of water per year, \$3,000 plus \$0.10 per acre-foot of water applied for; or

(ii) For an application to divert 10,000 acre-feet of water per year or more, \$5,000 plus \$0.10 per acre-foot of water applied for.

(2) If a water right application is accompanied by a petition to revise a declaration of fully appropriated stream systems, then \$100,000 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 \$520,000 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 initial review fee equal to \$500 plus 10 percent of the applicable application fee. No portion of the application fee shall be refundable once the application is either 1) accepted for filing or 2) the board communicates to the applicant that the applicant made a bona fide attempt to conform to the rules and regulations, but that the application is defective in some manner.

Authority: Sections 1058 and 1530, Water Code.

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

23 CCR § 1063

§ 1063. Annual Fees for Water Right Applications.

Under any of the following circumstances, a water right applicant shall pay an annual fee of \$750 plus ~~\$0.409~~ \$0.12 for each acre-foot in excess of 10 acre-feet, calculated as described in section 1066, subdivision (b).

(a) The diversion of water, the construction of diversion works, or the clearing of land where the diverted water will be used or stored, has been initiated before a permit is issued authorizing the diversion.

(b) The applicant requests the board to delay processing the water right application.

(c) The applicant is a lead agency under the California Environmental Quality Act (CEQA) (commencing with Public Resources Code section 21000) and has not adopted or certified a final environmental document for the project for which the application is filed, as may be required under CEQA, within two years after the board first provides notice of the water right application.

(d) The applicant fails to provide supplemental information requested pursuant to Water Code section 1275 within the time period provided.

(e) The Deputy Director for Water Rights has determined that a permit may be issued for the project, but the applicant has not paid filing fees required under Public Resources Code section 10005, Fish and Game Code section 711.4, or other law.

Authority cited: Sections 1058 and 1530, Water Code.

Reference: Sections 1525, 1536 and 1537, Water Code.

23 CCR § 1064

§ 1064. Filing Fees for Petitions or Requests.

(a) A person who files a petition or a request for release from priority shall pay to the board a filing fee for each water right application, permit or license covered by the petition or request in accordance with this section.

(1) For purposes of calculating the filing fee, a petition to change one or more terms of a single application, permit, license, or other water right shall be considered a single petition, provided that action can be taken on the changes simultaneously, except that a petition for an extension of time shall be considered a separate petition, subject to a separate fee, from a petition to change one or more other terms in a water right. A petitioner requesting changes to more than one application, permit, license, or other water right shall file a separate petition or petitions for each water right and a filing fee shall be required for each petition, except as provided in paragraph (A)(v). A separate filing fee shall be required for each change petition subsequently filed on a water right that is already the subject of a pending petition for change.

(1) Except as provided in subparagraphs (i), (ii), (iii), (iv) and (v), the fee for a petition to change the terms of an application, permit or license shall be as follows. The fee shall be a minimum of \$1,000. If the total annual amount of diversion sought by the pending application or authorized by the permit or license, as calculated in accordance with section 1066, is greater than 10 acre-feet, then the petitioner shall pay an additional \$0.40 for each acre-foot in excess of 10 acre-feet. The total fee shall not exceed \$20,000.

(i) The fee for a petition for change pursuant only to Water Code section 1707 shall be \$850.

(ii) The fee for a change petition involving a transfer of water pursuant to Water Code section 382, 1435, 1701, 1725, or 1735 shall be \$2,000, plus \$0.50 for each acre-foot that the petitioner seeks to transfer in excess of 10 acre-feet. The fee shall be based on the maximum amount of water proposed to be transferred annually, not the amount of water proposed to be transferred over the entire term of the transfer. The total fee shall not exceed ~~\$648,914~~ \$674,481.

(iii) The fee for a petition for extension of time shall be \$1,000 plus \$0.40 per acre-foot authorized for diversions in excess of 10 acre feet, or \$20,000,

whichever is less; provided that the fee for a petition for extension of time filed in conjunction with a petition for another type of change for the same right shall be 50 percent of the fee otherwise applicable pursuant to this subparagraph.

(iv) The fee for a petition for issuance of separate permits or licenses pursuant to section 836, where there are no changes to the authorized point of diversion, place of use, purpose of use, or any other material term of the permit or license other than as necessary for the split, shall be \$850.

(v) The fee for one or more petitions for temporary change to permits or licenses needed to implement a watershed-wide agreement to provide regional sharing of water diversions of up to 50,000 acre-feet across a watershed shall be \$1,000. If a petitioner files the petition or petitions concurrently with a separate petition for temporary change related to one or more of the same permits or licenses, the fee pursuant to this paragraph shall be waived.

(2) The fee for a petition to change the point of discharge, place of use, or purpose of use of treated wastewater pursuant to Water Code section 1211 shall be \$5,000 plus \$3.00 per acre-foot of reduced flow, or \$75,000, whichever is less.

(3) The fee for a request for release from priority of a state-filed application pursuant to Water Code section 10504 shall be ~~\$5,000~~as follows:-

- (i) For requests accompanying the filing of an application to appropriate water, an unnoticed application or pending application with active protests, \$20,000;
- (ii) For requests submitted for a pending application that has been noticed with no unresolved protests, \$5,000;
- (iii) For requests submitted for a single pending application that has been noticed with no unresolved protests, seeking release from two or more state-filed applications, \$10,000.

(4) The fee for filing an amended registration ~~a petition filed~~ pursuant to Water Code section 1228.7 to change the point of diversion or place of use under a registration of an appropriation for small domestic or livestock stockpond use shall be ~~\$500~~ the same as the fee required by section 1068, subdivision (a) for filing of a registration.

(5) The fee for a petition filed pursuant to Water Code section 1228.7 to change the point of diversion or place of use under a registration of an appropriation for small irrigation use shall be \$750.

(b) A person who filed a petition or a request for release from priority 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 petition filing fee includes a non-refundable \$250 initial review fee.

(d) A petition for a temporary urgency change filed under Water Code section 1443.1 that is solely for purposes of diverting water to underground storage for later beneficial use shall be accompanied by, in addition to the fee required by subdivision (a) of this section, a fee for the California Department of Fish and Wildlife review of the petition as follows:

(1) For a petition to divert less than 10,000 acre-feet of water per year, \$3,000 plus \$0.10 per acre-foot of water applied for; or

(2) For a petition to divert 10,000 acre-feet of water per year or more, \$5,000 plus \$0.10 per acre-foot of water applied for.

Authority: Sections 1058 and 1530, Water Code.

Reference: Sections 386, 1228.7, 1525 and 1535, Water Code.

23 CCR § 1066

§ 1066. Annual Fees for Permits or Licenses.

(a) A person who holds a water right permit or license shall pay a minimum annual fee of ~~\$300~~\$350. If the total annual amount of diversion authorized by the permit or license is greater than 10 acre-feet, then the permittee or licensee shall pay an additional ~~\$0.109~~\$0.12 for each acre-foot in excess of 10 acre-feet.

(1) For permits or licenses issued prior to the beginning of the year for which the fee is imposed, the board shall calculate annual fees according to the total annual amount of diversion authorized by the permit or license as of the beginning of the year.

(2) The board shall calculate annual fees for permits issued on or after the beginning of the year according to the total annual amount of diversion authorized by the permit as issued by the board.

(3) The annual fee shall be 75 percent of the fee calculated pursuant to subdivision (a) based on the face value of the permit or license, or a minimum fee of \$300 plus \$0.109 for every acre-foot in excess of 10 acre-feet actually diverted, whichever is greater, for permits or licenses issued on or after January 1, 2020 that meet the following criteria:

(A) The permit or license meets the criteria for the reduced application fee under section 1062, subdivision (a)(1)(F); and

(B) The right holder has installed and is maintaining a stream gage with telemetry capabilities to provide publicly available real-time streamflow conditions via the California Data Exchange Center website.

(4) The reduced annual fee available pursuant to subdivision (a)(3) of this section shall not apply if the right holder does not timely submit the progress report by the permittee required by section 925 or the report of licensee required by section 929.

(5) The reduced annual fee available pursuant to subdivision (a)(3) of this section shall be calculated based on timely reported diversions for the preceding reporting year, provided that the annual fee for the year in which a permit is issued shall be 75 percent of the fee calculated pursuant to subdivision (a) based on the face value of the permit or license.

(b) The board shall calculate the annual fee based on the total annual amount of diversion authorized by the permit or license, without regard to the availability of water for diversion or any bypass requirements or other conditions or constraints that may have the practical effect of limiting diversions but do not constitute a condition of the permit or license that expressly sets a maximum amount of diversion.

(1) If the permit or license does not expressly identify the total annual amount of diversion, the board shall calculate the total annual amount based on the rate of

authorized diversion multiplied by the length of time in the authorized season of diversion.

(2) If the permit or license contains an annual diversion limitation that is applicable only to that permit or license, and the limitation is less than the calculated diversion volume, the fee shall be based on the amount specified in the limitation.

(3) If a person holds multiple water rights that contain an annual diversion limitation that is applicable to the combination of those rights, but the person may still divert the full amount authorized under a particular right, then the fee shall be based on the total annual amount for that individual right.

(c) Notwithstanding subdivisions (a) and (b), an additional processing fee shall be added to the annual fee for any late filing of a report required by section 924, 925 or 929 as follows:

(1) For registrations, certificates, permits and licenses authorizing annual diversion of up to 100 acre-feet, a report that is submitted 31-60 days after the reporting deadline shall be assessed an additional late reporting fee of 20 percent of the applicable annual fee, a report that is submitted 61-90 days after the reporting deadline shall be assessed an additional late reporting fee of 30 percent of the applicable annual fee, and a report that is submitted more than 90 days after the reporting deadline shall be assessed an additional late reporting fee of 45 percent of the applicable annual fee.

(2) For registrations, certificates, permits and licenses authorizing annual diversion of more than 100 acre-feet but not exceeding 1,000 acre-feet, a report that is submitted 31-60 days after the reporting deadline shall be assessed an additional late reporting fee of 30 percent of the applicable annual fee, a report that is submitted 61-90 days after the reporting deadline shall be assessed an additional late reporting fee of 40 percent of the applicable annual fee, and a report that is submitted more than 90 days after the reporting deadline shall be assessed an additional late reporting fee of 55 percent of the applicable annual fee.

(3) For registrations, certificates, permits and licenses authorizing annual diversion of more than 1,000 acre-feet but not exceeding 5,000 acre-feet, a report that is submitted 31-60 days after the reporting deadline shall be assessed an additional late reporting fee of 40 percent of the applicable annual fee, a report that is submitted 61-90 days after the reporting deadline shall be assessed an additional late reporting fee of 50 percent of the applicable annual fee, and a report that is submitted more than 90 days after the reporting deadline shall be assessed an additional late reporting fee of 65 percent of the applicable annual fee.

(4) For registrations, certificates, permits and licenses authorizing annual diversion of more than 5,000 acre-feet but not exceeding 25,000 acre-feet, a report that is submitted 31-60 days after the reporting deadline shall be assessed an additional late reporting fee of 50 percent of the applicable annual fee, a report that is submitted 61-90

days after the reporting deadline shall be assessed an additional late reporting fee of 60 percent of the applicable annual fee, and a report that is submitted more than 90 days after the reporting deadline shall be assessed an additional late reporting fee of 75 percent of the applicable annual fee.

(5) For registrations, certificates, permits and licenses authorizing annual diversion of more than 25,000 acre-feet, a report that is submitted 31-60 days after the reporting deadline shall be assessed an additional late reporting fee of 60 percent of the applicable annual fee, a report that is submitted 61-90 days after the reporting deadline shall be assessed an additional late reporting fee of 70 percent of the applicable annual fee, and a report that is submitted more than 90 days after the reporting deadline shall be assessed an additional late reporting fee of 85 percent of the applicable annual fee.

Authority cited: Sections 1058 and 1530, Water Code.

Reference: Sections 1525, 1536 and 1537, Water Code.

23 CCR § 1068

§ 1068. Fees for Small Domestic, Livestock Stockpond and Small Irrigation Use Registrations.

- (a) A person who registers an appropriation of water for small domestic or livestock stockpond use pursuant to Water Code section 1228.3 shall pay to the board a non-refundable registration fee of \$250.
- (b) Each holder of a registration for small domestic or livestock stock-pond use issued pursuant to Water Code section 1228.5 shall pay to the board an annual fee in each year after the registration was first registered as follows:
 - (1) In fiscal year 2018-19, \$50.
 - (2) In fiscal year 2019-20, \$75.
 - (3) In fiscal year 2020-21, \$100.
 - (4) For a small domestic use registration held by a low-income resident for purposes of providing water for human consumption, cooking and sanitary purposes, the annual fee shall be reduced by 20 percent.
 - (5) For purposes of this section, a low-income resident is: (A) someone whose household income is 200 percent or less of federal poverty level; or (B) someone who is enrolled in a qualified income-based public assistance program.
 - (6) Any holder of a small domestic use registration who submits adequate substantiation of eligibility for the annual fee reduction pursuant to paragraph (4), above, during fiscal year 2018-19, shall receive a credit on their fiscal year 2019-20 bill in the amount of any overpayment.
 - (7) For any holder of a small domestic use registration who submits adequate substantiation of eligibility for the annual fee reduction pursuant to paragraph (4), above, after fiscal year 2018-19, the reduction shall take effect in the subsequent fiscal year.
 - (8) For livestock stockpond use, the maximum annual fee for a single primary owner holding 5 or more registrations shall be as follows:
 - (1) In fiscal year 2018-19, \$250.

(2) In fiscal year 2019-20, \$375.

(3) In fiscal year 2020-21, \$500.

- (c) A person who registers an appropriation of water for small irrigation use other than for irrigation use for cannabis shall pay to the board a non-refundable registration fee of \$750.
- (d) A person who registers an appropriation of water for small irrigation use other than for irrigation use for cannabis shall pay to the board an annual fee of \$100 in each year after the registration was first registered.
- (e) A person who registers an appropriation of water for small irrigation use pursuant to Water Code section 1228.3, for which cannabis cultivation is an intended use and for which no onstream reservoir will be constructed or used, shall pay to the board a non-refundable annual fee of \$750. If a registrant no longer uses the registration for cannabis cultivation but wants to keep the diversion for another purpose of use, the registrant shall continue paying this annual fee until a request for a replacement water right has been filed and a revocation has been requested by the registrant.
- (f) A person who registers an appropriation of water for small irrigation use for cannabis that involves construction or use of an onstream reservoir shall pay a non-refundable filing fee of \$4,750.
- (g) A person who registers an appropriation of water for small irrigation use for cannabis that involves construction or use of an onstream reservoir shall pay an annual fee of \$1,000 in each year after the year in which they pay the filing fee identified in subdivision (f).
- (h) A person who registers both an appropriation of water for small irrigation use other than for cannabis use and an appropriation of water for small irrigation use for cannabis that use the same diversion shall receive a 50 percent discount on the fees required pursuant to subdivisions (c) and (d).
- (i) A person who, following submittal of a small irrigation use registration for cannabis, claims to divert from a fully-contained spring shall include with the filing of a report intended to demonstrate the diversion is from a fully-contained spring a filing fee of \$4,000.

Authority: Sections 1058 and 1530, Water Code.

Reference: Sections 1228.3, 1228.5 and 1525, Water Code.

23 CCR § 3833

§ 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).~~

(23) 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.

(C)(D) If the activity is not subject to subparagraph (C) and 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)(3).

(4)(3) If a revised application for water quality certification is filed for the same project that had been previously denied certification with or 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.

Authority: Sections 1058 and 13160.1, Water Code.

Reference: 26 U.S.C. Section 169, 40 CFR Section 20; 33 U.S.C. Section 1341; and Sections 1060, 13160 and 13160.1, Water Code.