On September 15, 2009, the State Water Resources Control Board adopted Resolution 2009-0071, which revised the emergency water right fee regulations and schedules to be consistent with the revenue levels set forth in the Budget Act for Fiscal Year (FY) 2009-2010. 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 right permits, licenses, water leases, and applications. In addition, the existing regulations establish requirements for filing a petition for reconsideration of a fee determination made by the Board. In general, these emergency regulations would adjust the fee schedule to (1) provide a one-time credit on annual permit or license fees to bring revenues in line with anticipated expenditures for FY 2009-2010, (2) reduce the filing fees for the groundwater recordation program to bring revenues in line with anticipated expenditures, (3) adjust the fee caps on certain filing fees to coincide with the changes in the consumer price index, and (4) clarify fee language for petitions involving water transfers and petitions for temporary urgency involving water transfers.

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 10/21/2009 and shall remain in effect until revised by the State Water Resources Control Board pursuant to Water Code section 1530.
STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

OAL FILE NUMBERS  Z- N OICE FILE NUMBER  REGULATORY ACTION NUMBER  EMERGENCY NUMBER  2009-1015-01E

For use by Office of Administrative Law (OAL) only
2009 OCT 15 AM 9:32
OFFICE OF ADMINISTRATIVE LAW

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

1. SUBJECT OF NOTICE

2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE

4. AGENCY CONTACT PERSON

OAL USE ONLY

5. AGENCY FILE NUMBER (If any)

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxic related)

3. TYPE OF FILING

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(b); CAL. CODE REGS., TITLE 1, § 100)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

7. CONTACT PERSON

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  9/29/09

TYPED NAME AND TITLE OF SIGNATORY

Dorothy Rice, Executive Director

Chief Deputy Director

CHIEF DEPUTY DIRECTOR

Office of Administrative Law

For use by Secretary of State only
ENDORSED FILED IN THE OFFICE OF
DEBRA BOWEN
SECRETARY OF STATE

ENDORSED APPROVED
OCT 21 2009
Office of Administrative Law
Amend the following section:


(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), 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 $440,000 $454,960, 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 shall be the greater of either (i) 50 percent of the fee calculated under subparagraph (A), above, or (ii) $2,000; except that the fee for an application for a temporary permit 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.

(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.

Amend the following section:

§ 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. 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.

(A) Except as provided in subparagraphs (i), (ii), and (iii), 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 $0.30 for each acre-foot in excess of 10 acre-feet. The total fee shall not exceed $5,525 $5,715.

(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 $0.30 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 $440,000 $454,960.

(iii) The fee for a petition for extension of time shall be $1,000.

(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 $1,000.

(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.

(4) 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 domestic or livestock stockpond use shall be $250.

(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.


Amend the following section:
§ 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 $100. 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 $0.03 for each acre-foot in excess of 10 acre-feet. To adjust for higher than anticipated one-time fee revenues in previous years and lower than budgeted expenditures as a result of furloughs, the permittee or licensee shall receive a one-time credit in the fiscal year 2009-10 billing cycle in the amount of $0.007 for each acre-foot by which the annual diversion authorized by the permit or license is greater than 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.

(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.
Amend the following section:

§ 1070. Notice of Extraction and Diversion of Water
A person who files a notice under division 2, part 5 (commencing with section 4999) of the Water Code, shall pay to the board a filing fee of $145.  