

STATE WATER RESOURCES CONTROL BOARD
WORKSHOP SESSION – DIVISION OF WATER QUALITY
MAY 3, 2005

ITEM 4

SUBJECT

CONSIDERATION OF A RESOLUTION ESTABLISHING FEE SCHEDULES FOR AGRICULTURAL WAIVER HOLDERS TO COMPLY WITH AMENDMENTS TO SECTION 13269 OF THE WATER CODE.

DISCUSSION

In 1999, California Water Code section 13269 was amended to require the Regional Water Boards to review the conditions of their waivers of waste discharge requirements and to either renew the waivers or replace them with waste discharge requirements. The amendment also required enforcement of conditions in waivers and the re-adoption of waivers every five years. In 2003, California Water Code section 13269 was amended to authorize the State Board to establish a fee schedule for waivers. The fiscal year 2004-2005 budget included 22 positions for implementing waivers and specified that funding for the positions would come from new fees to be established for waivers.

The State Water Board is authorized to collect \$1.9 million annually for these purposes. The money will be used to fund 22 positions to implement agricultural waivers. State and Regional Water Board staff will perform various tasks including grower assistance and education, review of waiver applications, review of monitoring reports, environmental and water quality assessment, inspections, evaluation of management practices, enforcement, coordination with other agencies, renewal of waivers, and information management.

When establishing fees for agricultural waivers, California Water Code section 13269(a)(4)(C) requires the State Water Board to consider the following relevant factors:

- a) The size of the operations.
- b) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.
- c) Any costs associated with water quality monitoring performed or funded by the operations.
- d) Participation in a watershed management program approved by the applicable Regional Board.

STAFF PROPOSAL

The State Water Board staff is proposing a three-tier, acreage-based fee schedule for agricultural waivers.

- The fee is based on a three-tier system:
 1. The fee for dischargers who are members of groups that have been approved by the State Water Resources Control Board to manage fee collection and payment will be a \$100 base fee per approved group plus \$.12 per acre;
 2. The fee for dischargers who are members of groups that have been approved by the State Water Resources Control Board but do not manage fee collection and payment will be a \$100 base fee per farm plus \$.20 per acre;
 3. The fee for individual dischargers will be a \$100 base fee per farm plus \$.30 per acre.

- The total fee includes a base fee and a per acre fee;
- Everyone receiving a bill will pay the base fee;
- If an approved group pays the bill it will be charged only one base fee;
- The fees will be designed to collect \$1.9 million.

CENTRAL VALLEY COALITION PROPOSAL

In the Central Valley, the Sacramento Valley Water Quality Coalition and the California Rice Commission are proposing a fee based on specific staff resource allocations to implement waiver requirements.

This proposal is similar to the State Water Board staff proposal, but it includes the option of individually negotiated agreements between the State Water Board and each coalition. The fees to be collected under this proposal will be less than the authorized amount.

Parties subject to waivers in the Central Coast Region are considering developing a separate fee proposal, but no information has been submitted at this time.

POLICY ISSUE

Should the State Water Board adopt a resolution to:

1. Adopt emergency regulations approving a fee schedule for agricultural waivers to comply with Section 13269 of the Water Code based on the staff proposal.
2. Adopt emergency regulations approving a fee schedule for agricultural waivers to comply with Section 13269 of the Water Code based on the Central Valley Coalition proposal.
3. Consider other alternative fee schedules based on other proposals to be presented at the meeting.

FISCAL IMPACT

The cost to implement and administer the agricultural waiver program is estimated to be \$1.9 million. The staff proposal is designed to raise sufficient revenue to offset estimated program costs. It is unclear whether the alternative proposals will be able to generate adequate revenues to offset estimated program costs.

RWQCB IMPACT

None.

STAFF RECOMMENDATION

That the State Water Board:

Approve the proposed fee schedule recommended by staff.

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2005 -

ADOPTING EMERGENCY REGULATION REVISIONS TO THE FEE SCHEDULES
CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTION 2200.6 OF THE
CALIFORNIA CODE OF REGULATIONS

WHEREAS:

1. SB 923 (Sher), Chapter 801, Statutes of 2003, amended California Water Code section 13269 to authorize the State Board to establish a fee schedule for waivers.
2. The State Budget Act for fiscal year 2004-05 appropriated \$1.9 million annually in fee revenue to fund the SWRCB's Agricultural Waiver program, to be paid by those to whom waiver requirements are issued.
3. Water Code Section 13260 requires the SWRCB to adopt a schedule of fees by emergency regulation.
4. The fee schedule adopted pursuant to Water Code Section 13260 is found at Title 23, Division 3, Chapter 9, Article 1, Section 2200 of the California Code of Regulations.
5. SWRCB staff prepared a recommended Agricultural Waiver fee schedule (attachment A) to implement the State Budget Act requirements. The fee schedule must generate the fee revenue appropriated in the State Budget Act.

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board:

Approves the adoption of a fee schedule for agricultural waivers.

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 May 19, 2005.

Debbie Irvin
Clerk to the Board