

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION 2019-0037**

ADOPTING AN EMERGENCY REGULATION AMENDING THE ENVIRONMENTAL
LABORATORY ACCREDITATION PROGRAM (ELAP) FEE SCHEDULES IN TITLE 22,
CALIFORNIA CODE OF REGULATIONS SECTION 64806

WHEREAS:

1. The State Water Board is responsible for administering the Environmental Laboratory Accreditation Act. (Health and Safety Code, §100825 et seq.) Health and Safety Code (HSC) section 100860.1 requires that a laboratory pay a fee at the time of applying for Environmental Laboratory Accreditation Program (ELAP) certification and annually thereafter.
2. Pursuant to HSC sections 100829, 100830, and 116271, the State Water Board is authorized to adopt regulations establishing fees for accreditation of environmental laboratories.
3. HSC section 100829 mandates that the accreditation program operated pursuant to the Environmental Laboratory Accreditation Act be fully fee-supported. HSC section 100920 requires that environmental laboratory accreditation fees be deposited in the Environmental Laboratory Improvement Fund.
4. Senate Bill (SB) 839 (2016) (Resources Trailer Bill) amended HSC section 100829 and requires the State Water Board to adopt a schedule of fees to recover costs incurred for the accreditation of environmental laboratories.
5. HSC section 100829 requires the State Water Board to set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the Environmental Laboratory Improvement Fund for expenditure, taking into account the reserves in the Environmental Laboratory Improvement Fund. HSC section 100829 also provides that the schedule of fees be set in an amount sufficient to recover all reasonable regulatory costs incurred for the purposes of the Environmental Laboratory Accreditation Act. HSC section 100829 also requires that the State Water Board review and revise the fees each fiscal year as necessary to conform to the amounts appropriated by the Legislature.
6. HSC section 100829 further states the State Water Board shall adopt the schedule of fees by emergency regulation, not subject to review by the Office of Administrative Law.

7. State Water Board staff recommends adopting the amendments to the State Water Board's ELAP fee regulations in accordance with HSC section 100829 as amended by SB 839 (2016) (Resources Trailer Bill).
8. The amendments to the ELAP fee [regulations](#) will be contained in Title 22, California Code of Regulations Section 64806.
9. These regulations are exempt from review by the Office of Administrative Law and will take effect upon being filed with the Secretary of State by the Office of Administrative Law.
10. The California Environmental Quality Act (CEQA) provides a statutory exemption for the review and modification of charges by public agencies. Specifically, Public Resources Code Section 21080 (b)(8) provides for such statutory exemption if the public agency finds that such charges "are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter."
11. The State Water Board finds that the charges identified in Title 22, California Code of Regulations, Section 64806 are for the purpose of: meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials; and meeting financial reserve needs and requirements.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts amendments to Title 22, California Code of Regulations, Section 64806.
2. The State Water Board determines that adoption of Title 22, California Code of Regulations, Section 64806 is statutorily exempt from CEQA for the reasons given above, and directs the State Water Board staff to prepare and submit to the State Clearinghouse a Notice of Exemption reflecting this determination.
3. The State Water Board Executive Director shall sign the Form 400 and the State Water Board staff shall submit the adopted regulations to OAL for filing with the Secretary of State,

4. If, prior to OAL filing the regulations with the Secretary of State, State Water Board staff, the State Water Board, or OAL staff determine that non-substantive corrections to the language of the regulations are needed for clarity or consistency, the State Water Board Executive Director may make such changes.

CERTIFICATION

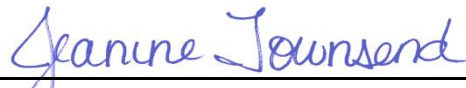
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 16, 2019.

AYE: Chair E. Joaquin Esquivel
Board Member Tam M. Doduc
Board Member Sean Maguire
Board Member Laurel Firestone

NAY: None

ABSENT: Vice Chair Dorene D'Adamo

ABSTAIN: None



Jeanine Townsend
Clerk to the Board