

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES  
SEPTEMBER 20, 2016**

**ITEM 7**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING DRINKING WATER FEE REGULATIONS IN TITLE 22, SECTIONS 64300, 64305, 64310, AND 64315 OF THE CALIFORNIA CODE OF REGULATIONS.

**DISCUSSION**

Senate Bill 83 (2015) requires the State Water Resources Control Board (State Water Board) to adopt a new fee schedule for the drinking water program in regulation. The fees are to reimburse the State Board for costs it incurs in administering the Safe Drinking Water Act (SDWA). Health and Safety Code section 116565, subdivision (d), which became operative July 1, 2016, provides that the State Board "shall 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 Safe Drinking Water Account for expenditure for the administration of this chapter, taking into account the reserves in the Safe Drinking Water Account." The law requires that the fee schedule initially be set through the regular rulemaking process. Thereafter, amendments to the schedule may be done as emergency regulations which are not subject to review by the Office of Administrative Law.

Drinking Water fees are used for the following: meeting operation expenses, including employee wage rate and fringe benefits; purchasing or leasing supplies, equipment, or materials; and meeting financial reserve needs and requirements.

The 45-day public notice period for the proposed amendments closed on June 22, 2016, and a public hearing was held on that date. Responses to all timely comments and three late comments received on the proposed regulations will be contained in the Final Statement of Reasons.

The State Water Board published and distributed a Notice of Modification to Text of Proposed Regulation and the modified text of the proposed regulation in underline and strikeout on July 14, 2016 for a 15-day comment period ending on July 29, 2016. Responses to all comments received pertaining to the proposed modifications will be contained in the Final Statement of Reasons.

**PROPOSED DRINKING WATER FEE STRUCTURE**

Under the proposed fee schedule all public water systems (PWS) would be charged an annual fee. PWS that the SDWA defines as community water systems (CWS) would be charged a fee per service connection on a declining tiered scale. PWS that the SDWA defines as nontransient noncommunity water systems would pay an annual fee per person served, with a minimum fee being set. PWS that meet the statutory definition of transient noncommunity water systems would pay a flat fee. The proposed regulations would define a new category of PWS for the purpose of these regulations, namely wholesalers, and would establish the fees to be paid by

them. Lastly, CWS that serve a disadvantaged community, as defined in the proposed regulations, would be eligible for a reduction in fees.

### **PROPOSED DRINKING WATER FEE REGULATIONS**

The proposed California Code of Regulations Title 22, sections 64300, 64305, 64310, and 64315 for the Drinking Water Program Fees would be contained in a new chapter located in the California Code of Regulations Title 22, Division 4, Chapter 14.5.

### **POLICY ISSUE**

Should the State Water Board adopt the proposed drinking water fee regulations?

### **FISCAL IMPACT**

The State Water Board is authorized to assess and collect fees in order to implement the Safe Drinking Water Act. If the proposed regulations are approved, it will have no net fiscal impact on the State Board.

### **REGIONAL BOARD IMPACT**

None.

### **STAFF RECOMMENDATION**

Staff recommends that the State Water Board adopt the proposed resolution to adopt regulations to establish the fee schedule.

<p>The State Water Board’s mission statement, “To preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations” supports this goal.</p>
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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2016-

ADOPTING DRINKING WATER FEE REGULATIONS IN TITLE 22, SECTIONS 64300, 64305, 64310, AND 64315 OF THE CALIFORNIA CODE OF REGULATIONS.

### WHEREAS:

1. The State Water Board is responsible for administering the Safe Drinking Water Act (Drinking Water Program). The Safe Drinking Water Act (Health and Safety Code, §116270 et seq.) (SDWA) requires that all persons who supply water for human consumption and meet the law's definition of "public water system" obtain a domestic water supply permit and submit an annual fee to the State Water Board.
2. On June 24, 2015, State Bill 83 (2015) was chaptered requiring the State Water Board to adopt a new fee schedule in regulation to support the Drinking Water Program.
3. Health and Safety Code (HSC) Section 116565, subdivision (d) requires that the fee schedule initially be set through the regular rulemaking process and that, thereafter, amendments and adjustments to the schedule shall be done as emergency regulations that are not subject to review by the Office of Administrative Law.
4. The proposed regulations (Drinking Water Fee Regulations) establish a schedule of annual fees to be paid by public water systems.
5. The proposed Drinking Water Fee Regulations include a provision allowing community water systems that serve disadvantaged communities to pay a reduced fee.
6. The Drinking Water Fee Regulations include a provision authorizing State Water Board to extend the deadline for payment of the annual upon a showing of good cause.
7. State Water Board staff recommends adoption of the proposed Drinking Water Fee Regulations as required by Health and Safety Code section 116565.
8. The Drinking Water Fee [Regulations](#) will be contained in Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations.
9. The 45-day public notice period for the proposed amendments closed on June 22, 2016, and a public hearing was held on that date. Responses to all timely comments and three late comments received on the proposed regulations will be contained in the Final Statement of Reasons.
10. The State Water Board published and distributed a Notice of Modification to Text of Proposed Regulation and the modified text of the proposed regulation in underline and strikeout on July 14, 2016 for a 15-day comment period ending on July 29, 2016. Responses to all comments received pertaining to the proposed modifications will be contained in the Final Statement of Reasons.
11. The California Environmental Quality Act (CEQA) provides a statutory exemption for the review and modification of charges by public agencies. Specifically, Public Resources

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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."

12. The State Water Board finds that the charges identified in Title 22, Division 4, Chapter 14.5, of the California Code of Regulations, 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 Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations.
2. The State Water Board determines that adoption of Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations 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 and supporting documentation to Office of Administrative Law (OAL) for review and filing with the Secretary of State; and
4. If, prior to the 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 regulations or supporting documentation are needed to facilitate the review process, 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 September 20, 2016.

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Jeanine Townsend  
Clerk to the Board