

Drinking Water Fees – Basis for Establishing Fees

Background

- The State Board is responsible for administering the Safe Drinking Water Act (SDWA) (Health & Saf. Code, div. 104, pt. 12, ch. 4, §116270, et seq.)
- The program within the State Board that regulates public water systems (Drinking Water Program) is supported from several sources, with most of the funding provided by fees paid by public water systems deposited in the Safe Drinking Water Account, as provided for in Health and Safety Code (HSC) section 116590
- Effective July 1, 2016, the existing law that established the fee schedule for public water systems was repealed and the State Board was ordered to adopt a new fee schedule to support the Safe Drinking Water Program.
- The statute that was repealed, Health and Safety Code section 116590, required large water systems, defined as those with 1,000 or more service connections (LWS), and Wholesale Water Systems to reimburse the State Board for actual costs incurred by the State Board for conducting specified activities that relate to that specific public water system. Systems that served fewer than 1,000 service connections were required to pay a fee that was capped, and was not tied directly to services provided to that system.
- The new statute, also codified as Health and Safety Code section 116590, requires that the State Board "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 ... [the SDWA], taking into account the reserves in the Safe Drinking Water Account."

Basis for Calculating Fees

- The proposed fee schedule is based on the appropriation of \$23.7 million from the Safe Drinking Water Account in the Budget Act of 2016. The amount appropriated in the Budget Act includes expenditures for staff, overhead and administration.
- The State Board initially considered proposing fees that would generate somewhat more revenue than necessary to recover the amount appropriated, in order to build up a reserve for economic uncertainties in the Safe Drinking Water Account. Initial public outreach to fee payers assumed fees based on the Safe Drinking Water Account appropriation proposed in the Governor's Budget, plus an additional amount to build up a reserve. The amount of the Safe Drinking Water Act appropriation was substantially increased before final enactment of the Budget Act, however. Considering that the larger appropriation had not been anticipated during initial outreach over the new fees, the State Water Board decided not to include an additional amount to build up a reserve when it determined a target for fee revenues. Instead, the State Water Board set the fees in an amount estimated to recover the Budget Act appropriation, without any additional revenue to build up reserves for economic uncertainty in the Safe Drinking Water Account.
- The proposed fee schedule aims to generate \$23.7 million in fee revenue by distributing the costs among water systems using a flat fee model with de-

escalating tiers for community water systems, a volumetric-based fee for Wholesale Water Systems, a flat fee for Nontransient Noncommunity Water Systems, and a per service connection fee with a minimum base for Transient Noncommunity Water Systems.

- For community water systems, the proposed fee schedule uses a flat fee model, instead of the fee-for-service model provided for some water systems in the now-repealed legislation because fee for service is not a stable or reliable way to recover program costs. Fee-for-service becomes quite complex for staff as well as rate payers because overhead and administrative costs must be included. It is difficult to determine a fair way to allocate those expenditures and other fixed costs using an hourly rate. Also, the program engages in activities that benefit all public water systems, such as drafting regulations. Even if the cost for those activities could be attributed to an individual water system, determining which costs could be charged to the systems and apportioning the costs of those additional activities to individual water systems would involve extremely complex and time-consuming calculations. Second, if fees were established on a fee-for-service model, the total amount of fees assessed would not be known until the end of the fiscal year (FY), and there would be no mechanism to adjust the fees to match the appropriation for that year. Thus, the fees would not equal the amount of the appropriation.
- With two exceptions, the proposed fee schedule for community water systems would impose a per service connection fee. Systems with 100 or fewer service connections would be charged the higher of a base fee or per service connection fee. Systems that serve a disadvantaged community would be eligible for reduced fees, which would generally be a base fee plus per service connection fee, except that the smallest disadvantaged system would pay a flat fee.
- The community water system fees are based on a series of tiers. Using either an identical per connection fee, or base plus per service connection fee, for all community water systems, would result in some water systems being impacted with extremely high fees and the fees would not be commensurate with the amount of staff time historically required to regulate the respective systems. Using tiers, SWRCB staff are able to more effectively manage, adjust, and divide the share of program costs fairly and equitably.
- The proposed fees for the noncommunity water systems, both transient and nontransient, are identical to the fees that those systems were charged under the fee statute that was repealed.
- The proposed fee schedule for wholesale water systems is a volumetric based fee. For wholesale water systems, a per service connection charge would not be fair or equitable, as many wholesale water providers have very few service connections, yet they often treat and move large volumes of water through their systems.
- The Drinking Water Program is funded from several sources, not only from the Safe Drinking Water Account. Those sources for FY 2016-17 are the Budget Act appropriation of \$23,717,000 for the Safe Drinking Water Account (Fund 0306), as noted, and also \$7,540,000 in Federal Trust Fund (Public Water System Supervision (PWSS) Grant Funds) (Fund 0890), and \$7,650,000 non-Budget Act PWSS State Revolving Fund (SRF) (Fund 7500). Health and Safety Code section 116590 provides for a cap on all funding from all sources for Safe

Drinking Water Program operations, which was increased to \$38,907,000 for FY 2016-17 to match the appropriation. Because the cap applies not just to fee revenues deposited in the Safe Drinking Water Account, and because the cap is set at an amount consistent with all funding appropriated from all sources for FY 2016-17, it does not operate as a limitation on the authority to set fees consistent with the amount appropriated for expenditure from the Safe Drinking Water Account in FY 2016-17.

Proposed Fee Regulations

- Require all public water systems to pay an annual fee, and fees are established for four tiers, based on population served by the system. Wholesale Water Systems would pay a volumetric-based fee, rather than a fee based on fee for service.
- Allow systems that serve a disadvantaged community to obtain a reduction in the annual fee.
- Retain the requirement for public water systems to pay for enforcement costs on a fee-for-service basis. Thus, noncompliant public water systems will bear an additional cost.
- Align the drinking water fee process with the State Water Board's existing water quality and water rights fee processes which are designed to provide flexibility and adaptability to changing regulations/budgets.
- Table 1 below outlines the share of fee revenue estimated to be collected based on system type and size using public water system inventory data as of FY 2015-16.

Table 1

Drinking Water Fee Revenue by System Type/Size

Water System Type:	# of Systems	Million Gallons	Avg. Fee/System	Total:
Wholesalers	44	887,192	\$33,422.30	\$1,470,581

Water System Type:	# of Systems	Service Connections	Avg. Fee/System	Total:
Transient Noncommunity	1262	16,406	\$800.00	\$1,009,600

Water System Type:	# of Systems	Population	Avg. Fee/System	Total:
Nontransient Noncommunity	642	156,017	\$684.64	\$439,542

Water System Type:	# of Systems	Service Connections	Avg. Fee/System	Total:
Community (100 or fewer SC)*	685	28,337	\$184.54	\$126,410
Community (101 - 1,000 SC)*	579	211,289	\$1,695.18	\$981,510
Community (1,001 - 5,000 SC)*	348	830,530	\$9,784.80	\$3,405,109
Community (5,001 - 15,000 SC)*	175	1,600,028	\$28,286.03	\$4,950,056
Community (>15,000 SC)*	155	6,745,111	\$73,024.19	\$11,318,750

Totals:	3,890		\$6,092.95	\$23,701,558
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*This assumes that 50% of Community Water Systems (CWS) with 100 or fewer SC, 25% of CWS with 101-1,000 SC, and 25% of CWS with greater than 1,000 SC will apply for and receive a disadvantaged community discount. For the purpose of these calculations, the number of CWS receiving the discount in each range is split evenly among the top and bottom in terms of number of SC of the respective tiers.