
State Water Resources Control Board

NOTICE OF PROPOSED EMERGENCY RULEMAKING

Annual Drinking Water Fees

Amendments to Division 4, Chapter 14.5 of Title 22 of the California Code of Regulations

Required Notice of Proposed Emergency Action

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law (OAL), the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations, as set forth in Government Code section 11349.6.

Proposed Emergency Action

SB 83 (2015) required the State Water Resources Control Board (State Water Board) to establish a fee schedule to support the Drinking Water Program. Effective July 1, 2016, the existing Health and Safety Code section 116565, which establishes annual fees for public water systems, became inoperative (Stats. 2015, Ch. 24, § 19), and a new section 116565 (added by Stats. 2015, Ch. 24, § 20), became operative. The law requires the fee regulations initially be set through the regular rulemaking process, which occurred on April 10, 2017. Thereafter, regulations, any amendment thereto, or subsequent adjustments to the annual fees shall be adopted as emergency regulations that are not subject to review by OAL.

On September 15, 2026, the State Water Board will consider adopting emergency regulations that adjust drinking water fees to conform to the revenue levels set forth in the Budget Act for fiscal year (FY) 2026-27. The proposed emergency regulation will adjust the fee schedule by increasing the fees for group quarters, wholesalers, non-transient non-community and transient non-community water systems by approximately 4.5 percent and all community water systems fee tiers by approximately 9.7 percent, excluding the minimum fee for a disadvantaged community water system (DAC), which is proposed to increase from \$339 to \$550. The difference in proposed increases amongst water system types is necessitated due to proposed regulation changes regarding the definition of a disadvantaged community (DAC) water system and methodology changes of how a DAC is determined, which only affects community water

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systems. Finally, staff are also proposing to add clarifying language of who is responsible for payment in the event of an ownership change of a water system.

Proposed Text of Emergency Regulations

See the attached proposed text of the emergency regulation.

Finding of Emergency (Gov. Code, § 11346.1, subd. (b)(2).)

The State Water Board has a mandatory legal duty to assess fees through adoption of a regulation and to adopt by emergency regulation amendments thereto or subsequent adjustments to the annual schedule of fees. (Health & Saf. Code, §§ 116565, 116590.) Health and Safety Code section 116565, subdivision (e)(1), states that the “[t]he adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.” Health and Safety Code section 116565, subdivision (e)(2)(B), states that the emergency regulations shall remain in effect until revised by the State Water Board.

Moreover, the State Water Board finds that the proposed amendments to the Board’s fee regulations must be adopted immediately in order to allow for the timely collection of fees to conform to amounts appropriated by the Legislature from the Safe Drinking Water Account for the support of drinking water program activities. Without fee revenue in the amounts appropriated, much of the drinking water program would be in danger of being shut down. Continued administration of the drinking water program is essential to the economy, public health, and environment of the State of California.

The State Water Board is unable to address the situation through non-emergency regulations because, as discussed above, it has a mandatory, legal duty to adopt or change the fee schedules and language by emergency regulation.

Authority and Reference (Gov. Code, § 11346.5, subd. (a)(2).)

Health and Safety Code sections 116271, 116350, 116375, and 116565 provide authority for the emergency regulation. The emergency regulation implements, interprets, or makes specific Health and Safety Code sections 116565 and 116590.

Informative Digest (Gov. Code, § 11346.5, subd. (a)(3).)

Under the Health and Safety Code and existing regulations, each public water system shall pay an annual fee to the State Board in the amount provided in Table 64305-A, which is set forth in section 64305 of title 22 of the California Code of Regulations.

This emergency regulation ensures that the State Water Board has sufficient funds to administer the California Safe Drinking Water Act, as required by law. Ensuring that public water systems meet minimum requirements helps safeguard protection of public health and safety and the environment.

There is no comparable federal statute or regulation. The proposed regulation is not inconsistent or incompatible with existing state regulations.

Other Matters Prescribed by Statute (Gov. Code, § 11346.5, subd. (a)(4).)

No other matters are set by statute or regulation applicable to the State Water Board.

Local Mandate Determination (Gov. Code, § 11346.5, subd. (a)(5).)

The proposed emergency regulation does not impose a mandate on local agencies or school districts because it does not mandate a new program or a higher level of service of an existing program. The fee schedule applies equally to public and private entities and is not unique to local government. Public water systems can also increase the fees that they charge for their services to address the increased annual fee. No state reimbursement is required by part 7 (commencing with section 17500) of Division 4 of the Government Code.

Fiscal Impact (Gov. Code, § 11346.5, subd. (a)(6).)

Under the proposed emergency regulation there would be increases in annual fees for public water systems. However, there is no cost to any local agency or school district for which reimbursement is required, or other nondiscretionary cost or savings imposed on local agencies as the fee changes are not a state mandate. The amended fee schedule will result in a total estimated increase to state agencies of approximately \$60,660 and an estimated increase to local agencies of approximately \$1,919,274. Additionally, there is no cost or savings in federal funding to the state.

§ 64300. Definitions

(a) "Disadvantaged community" means the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide annual median household income level~~the public water system has a median annual household income of less than eighty percent (80%) of the statewide median annual household income.~~

(b) "Wholesaler" means a public water system that sells water to other public water systems. A public water system that has 1,000 or more service connections or that sells water only on a short-term or intermittent basis is not a wholesaler.

(c) "Group quarters" means a group living arrangement that is owned or managed by an entity or organization providing housing and/or services for the residents, including but not limited to, correctional facilities, college residences, residential treatment facilities, skilled nursing facilities, and military barracks.

Note: Authority cited: Sections 116271, 116350, 116375, and 116565, Health and Safety Code. Reference: Sections 116565 and 116590, Health and Safety Code.

§ 64305. Schedule for Annual Fees

(a) Each public water system shall pay an annual fee to the State Board in the amount provided in Table 64305-A.

(b) Except as provided in subsection (c), for each community water system, the number of service connections is equal to the number of service connections that the community water system reported on the electronic Annual Report (eAR), or other reporting tool as directed by the State Board, that was filed with the State Board for the calendar year immediately preceding the year in which the invoice is submitted to the community water system. If the community water system did not report the number of service connections to the State Board in the previous calendar year, the State Board will calculate the number of service connections.

(c) For each community water system that serves a group quarters, as defined in Section 64300, the fee will be based on the residential population as determined in the eAR or other reporting tools as directed by the State Board. The fee will be calculated based on residential population pursuant to Table 64305-A.

TABLE 64305-A – Public Water Systems Annual Fee

Water System Type	Fee
Community Water System	
100 or fewer service connections	\$6777.43 or \$11.32 <u>12.43</u> per service connection, whichever is greater
100 or fewer service connections (disadvantaged community)	\$339550
101 to 1,000 service connections	\$11.32 <u>12.43</u> per service connection
101 to 1,000 service connections (disadvantaged community)	\$339550 plus \$3.76 <u>4.13</u> per each service connection greater than 100
1,001 to 5,000 service connections	\$11.32 <u>12.43</u> per each of first 1,000 service connections plus \$6.62 <u>7.26</u> per each service connection greater than 1,000
1,001 to 5,000 service connections (disadvantaged community)	\$339550 plus \$3.76 <u>4.13</u> per each service connection greater than 100
5,001 to 15,000 service connections	\$11.32 <u>12.43</u> per each of first 1,000 service connections plus \$6.62 <u>7.26</u> per each service connection greater than 1,000 but less than 5,001 plus \$3.76 <u>4.13</u> per each service connection greater than 5,000
5,001 to 15,000 service connections (disadvantaged community)	\$339550 plus \$3.76 <u>4.13</u> per each service connection greater than 100
15,001 or more service connections	\$11.32 <u>12.43</u> per each of first 1,000 service connections plus \$6.62 <u>7.26</u> per each service connection greater than 1,000 but less than 5,001 plus \$3.76 <u>4.13</u> per each service connection greater than 5,000 but less than 15,001 plus \$2.56 <u>2.81</u> per each service connection greater than 15,000
15,001 or more service connections (disadvantaged community)	\$339550 plus \$3.76 <u>4.13</u> per each service connection greater than 100 but less than 15,001 plus \$2.56 <u>2.81</u> per each service connection greater than 15,000

Community Water System - Group Quarters	
3,300 or fewer persons served	\$677 <u>707</u> or \$3.43 <u>3.58</u> per person served, whichever is greater
3,301 to 16,500 persons served	\$3.43 <u>3.58</u> per each of first 3,300 persons served plus \$2.04 <u>2.10</u> per each person served greater than 3,300
16,501 to 49,500 persons served	\$3.43 <u>3.58</u> per each of first 3,300 persons served plus \$2.04 <u>2.10</u> per each person served greater than 3,300 but less than 16,501 plus \$1.14 <u>1.19</u> per each person served greater than 16,500
49,501 or more persons served	\$3.43 <u>3.58</u> per each of first 3,300 persons served plus \$2.04 <u>2.10</u> per each person served greater than 3,300 but less than 16,501 plus \$1.14 <u>1.19</u> per each person served greater than 16,500 but less than 49,501 plus \$0.78 <u>0.82</u> per each person served greater than 49,500
Nontransient Noncommunity Water System	\$3.76 <u>3.93</u> per customer served, but not less than \$862 <u>901</u> ¹
Transient Noncommunity Water System	\$1,509 <u>1577</u>
Wholesaler	\$11,316 <u>11,825</u> plus \$2.58 <u>2.70</u> per each MG ²

¹ Customer as defined in section 64400.30 of Article 1, Chapter 15.

² “Million Gallons” (MG) means the annual average, rounded to the nearest million, as reported to the State Board by the wholesaler in the eAR or other reporting tool as directed by the State Board, for the four years immediately preceding the year in which the invoice is submitted to the public water system, of the total gallons of water that the wholesaler produced from surface water and from groundwater and gallons of finished water that the wholesaler purchased or received from another public water system.

Note: Authority cited: Sections 116271, 116350, 116375, and 116565, Health and Safety Code. Reference: Sections 116565 and 116590, Health and Safety Code.

§ 64310. Reduction of Fees for Public Water Systems Serving Disadvantaged Community

(a) A public water system must pay the full amount of the annual fee unless it ~~requests and receives from the State Board~~ determines a determination that its annual fees are reduced because it is a community water system that serves a disadvantaged community ~~in which case the fee to be paid is the amount for a disadvantaged community as shown in Table 64305-A.~~ A community water system that serves a disadvantaged community must pay the reduced annual fee shown in Table 64305-A.

~~(b) To qualify for the reduction provided for in subsection (a), a public water system must certify under penalty of perjury that it served a disadvantaged community for the calendar year immediately preceding the year in which the invoice is submitted to the public water system, and, if requested to do so by the State Board, provide documentation, which may include an income survey, that it served a disadvantaged community during that calendar year.~~

(b) A community water system that is one of the types listed below, as determined by the State Board, is ineligible to receive a reduction in annual fees:

- (1) Campgrounds
- (2) Hotels
- (3) RV Parks excluding mobile home parks
- (4) Company-owned residences excluding farm labor housing
- (5) Government-owned residences
- (6) Group quarters

(c) If a community water system disagrees with the State Board's determination about whether the water system serves a disadvantaged community for the purposes of a reduction in annual fees pursuant to subsections (a)-(b), the water system may submit a petition:

(1) Within 60 calendar days after the electronic Annual Report (eAR) or other reporting tool as directed by the State Board is opened to the public for reporting, a community water system must submit a notice of intent to petition using the eAR or other reporting tool as directed by the State Board.

(2) A community water system with less than 15 service connections may request an individual evaluation by the State Board in lieu of the income survey required by subsection (c)(4)(B). The request must be included in the notice of intent to petition.

(3) Subsequent to the submission of a notice of intent to petition, the community water system must submit a complete petition no later than 6 months after the eAR or other reporting tool as directed by the State Board is opened to the community water system for reporting.

(4) A complete petition must include all the following:

(A) A service area boundary shape file/map; and

(B) An income survey that:

(i) Is self-funded;

(ii) Is conducted by a third-party provider;

(iii) Is less than or equal to 5 years old; and

(iv) Meets the minimum required number of responses, which is calculated based on the number of households in the service area using Cochran's formula as shown in the figure below.

$$n = \frac{270.6}{1 + \frac{270.6 - 1}{N}}$$

Where,

N = Number of households in universe

n = Minimum number of responses from households.

(d) State Board review of a petition.

(1) The State Board may refuse to review a petition submitted under subsection (c) if it does not comply with all the requirements of a petition under that subsection.

(2) If a petition meets all of the requirements of subsection (c), the State Board will make a determination to approve or deny the petition and will provide a notice of determination to the community water system.

(e) Filing a notice of intent to petition or submission of a complete petition does not automatically reduce the community water system's annual fee. Community water systems are required to pay the full annual fee specified in Table 64305-A if the State Board denies the petition. The State Board's determination pursuant to subsection (d)(2) shall not be applied retroactively to annual fees under section 64305 prior to the year for which the petition is filed.

(f) If the State Board approves a petition pursuant to subsection (d)(2), the disadvantaged community fee reduction will remain valid for five years. Unless the State Board makes a new determination under subsection (a) that the community water

system serves a disadvantaged community, for an approved fee reduction to continue uninterrupted, a petition must be submitted pursuant to subsection (c) and approved in the year before the expiration of the fee reduction.

Note: Authority cited: Sections 116271, 116350, 116375, and 116565, Health and Safety Code. Reference: Sections 116565 and 116590, Health and Safety Code.

§ 64315. Payment of Fees

(a) Each public water system shall pay to the State Board the fee required by this article. Payment is due upon receipt of the invoice, except that this date may be extended by the State Board for good cause, which shall be determined at the State Board's sole discretion. The owner of the public water system at the time fees, including any applicable late fees, are assessed shall be responsible for payment of those fees, notwithstanding a subsequent change in ownership of the public water system. Nothing in this section prohibits a change in ownership agreement from allowing a new owner to assume responsibility for previous fees.

Note: Authority cited: Sections 116271, 116350, 116375, and 116565, Health and Safety Code. Reference: Sections 116565 and 116590, Health and Safety Code.