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State Water Resources Control Board

## NOTICE OF OPPORTUNITY FOR PUBLIC COMMENT AND PUBLIC WORKSHOP

### Draft Regulations to Establish Fees for the State Water Board's Sustainable Groundwater Management Act Intervention Activities

**NOTICE IS HERBY GIVEN** that the State Water Resources Control Board (State Water Board) invites public comments on a draft Emergency Regulation for State Intervention Fees.

**NOTICE IS ADDITIONALLY HERBY GIVEN** that the State Water Board will hold a public Board Workshop to receive public comments on a draft Emergency Regulation for State Intervention Fees. Details of the State Water Board workshop are provided below.

**Wednesday, March 21, 2017 – 9:00 AM**  
Joe Serna Jr. – CalEPA Headquarters Building  
Coastal Hearing Room  
1001 I Street, Second Floor  
Sacramento, CA 95814

#### BACKGROUND

In 2014, Governor Brown signed the Sustainable Groundwater Management Act (SGMA), which creates a framework for sustainable, local groundwater management for the first time in California history. SGMA requires the formation of local groundwater sustainability agencies (GSAs) in California's high- or medium-priority groundwater basins. GSAs are required to develop groundwater sustainability plans that make basins sustainable within 20 years of plan implementation. If local agencies are unable or unwilling to sustainably manage their basin, the State Water Board is authorized to intervene. SGMA requires the State Water Board to adopt, by emergency regulation, a schedule of fees to cover the costs associated with state intervention (Water Code section 1529.5 and 1530).

Throughout the latter half of 2016, the State Water Board held stakeholder outreach meetings and presented fee schedule proposals at local events to get a better understanding of stakeholder concerns and solicit feedback on how to best structure state intervention fees. The draft emergency regulation considers and incorporates input provided by local governments, water suppliers, businesses, individuals, and non-governmental organizations.

#### DOCUMENT AVAILABILITY

Information on the draft emergency regulation and all related documents are available for review online at [http://www.waterboards.ca.gov/water\\_issues/programs/gmp/fees.shtml](http://www.waterboards.ca.gov/water_issues/programs/gmp/fees.shtml).

Additional information on Board Workshops and Board Meetings can be found on the State Water Board website at: [http://www.waterboards.ca.gov/board\\_info/calendar/](http://www.waterboards.ca.gov/board_info/calendar/).

## **SUBMISSION OF WRITTEN COMMENTS**

The State Water Board will accept written comments on the Draft Emergency Regulation. Written comments must be received by **5:00 pm on Friday, April 7, 2015** and be addressed to

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Comment letters may be submitted electronically in PDF text format (less than 15 megabytes in total size), to the Clerk to the Board via e-mail at [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov). If the file is greater than 15 megabytes in total size, then the comment letter may be submitted by fax at (916) 341-5620. Please indicate on the transmittal subject line: "**Comment Letter – Emergency Regulation for State Intervention Fees.**" Couriers delivering comment letters must check in with lobby security personnel, who can contact Ms. Townsend at (916) 341-5600.

## **PROCEDURAL MATTERS**

At the March 21, 2017 State Water Board Workshop, a quorum of the State Water Board may be present; however, no Board action will be taken at the workshop. The State Water Board and its staff may ask clarifying questions. The workshop is an opportunity for interested persons to provide input to the State Water Board.

To ensure a productive and efficient meeting in which all participants have an opportunity to participate, oral presentations at the Board Workshop may be time-limited. For other presentation recommendations, please go to the State Water Board's web site at: [http://www.waterboards.ca.gov/board\\_info/meetings/board\\_presentations.shtml](http://www.waterboards.ca.gov/board_info/meetings/board_presentations.shtml).

## **PARKING AND ACCESSIBILITY**

For directions to the Joe Serna, Jr. (CalEPA) Building and public parking information, please refer to the map on the State Water Board web site at: <http://www.calepa.ca.gov/EPAbldg/location.htm>.

The CalEPA Building is accessible to persons with disabilities. Individuals requiring special accommodations are requested to call (916) 341-5880 at least five working days prior to the meeting. Telecommunications Device for the Deaf (TDD) users may contact the California Relay Service at (800) 735-2929 or voice line at (800) 735-2922.

All visitors to the CalEPA Building are required to sign in and obtain a badge at the Visitor Services Center located just inside the main entrance (10th Street entrance). Valid picture identification may be required. The seating capacity of the Klamath Room is limited to 100. Please allow adequate time to sign in before being directed to the meeting room.

## **FUTURE NOTICES**

The State Water Board will hold the Board Workshop at the time and place noted above. The State Water Board is also tentatively scheduled to consider adoption of the Emergency Regulation at its May 16, 2017 Board Meeting. Any updates or changes in the date, time, and place of the Board Workshop or the Board Meeting will be provided on the State Water Board electronic mailing list.

To receive future notices concerning the Draft Emergency Regulation, please subscribe to the State Water Board's email distribution list. The subscription form is located at [http://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml). To subscribe, select the "General Interests" category, check the box for "Groundwater Management," and provide the required information.

**Contact Information**

Please direct all questions regarding the Draft Emergency Regulation for State Intervention Fees to Jessica Bean at [Jessica.Bean@waterboards.ca.gov](mailto:Jessica.Bean@waterboards.ca.gov) or 916-341-5334.

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Date

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Jeanine Townsend  
Clerk to the Board

**California Code of Regulations**

**Title 23. Division #. Chapter #. State Intervention Fees**

**Article #. Fees.**

**Section XXXX. Definitions.**

- (a) "Accuracy" means the measured volume relative to the actual volume, expressed as a percent. The percent shall be calculated as  $100 \times (\text{measured value} - \text{actual value}) / \text{actual value}$ .
  - (1) "Measured value" is the value indicated by the device or measurement method or determined through calculations, such as flow rate combined with duration of flow.
  - (2) "Actual value" is the value as determined through laboratory, design, or field testing protocols.
- (b) "Agency" means a groundwater sustainability agency as defined in Water Code section 10721(j).
- (c) "Board" means the State Water Resources Control Board
- (d) "Calibration" means the process used to check or adjust the accuracy of a meter following relevant industry established protocols.
- (e) "De minimis extractor" has the same meaning as defined in Water Code section 10721.
- (f) "Meter" means a device that measures groundwater extractions and that meets the requirements of section XXX.3.
- (g) "Qualified individual" means one of the following:
  - (1) A California-registered Professional Engineer or Professional Geologist.
  - (2) A California-licensed contractor authorized by the State License Board for C- 57 well drilling or C-61 Limited Specialty/D-21 Machinery and Pumps.
  - (3) A person under the supervision of a California-registered Professional Engineer or Professional Geologist and employed to install, operate, and maintain water measurement and reporting devices or methods.
  - (4) The manufacturer of the device or a representative of the manufacturer.
- (h) "Report" means a report of groundwater extraction as required by Water Code section 5202, prepared on a form provided by the board and including the information required by Water Code section 5203.
- (i) "Water year" has the same meaning as defined in Water Code section 10721.

**Section XXXX.1 Annual Fee Schedule.**

Except as provided in section XXX.1, any person required to file a report shall submit to the board an annual fee in accordance with the following schedule:

- (a) For persons required to file a report pursuant to Water Code section 5202(a)(2) who are not required to file a report pursuant to Water Code section 5202(a)(1):
  - (1) The annual fee is \$300 per well plus one of the following volumetric charges:

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- (A) \$10 per acre-foot of groundwater extracted during the preceding water year if the person uses a meter to measure groundwater extractions and certifies on a form provided by the Board that the measurements were made using a meter.
  - (B) \$25 per acre-foot of groundwater extracted during the preceding water year if the person does not use a meter to measure groundwater extractions or fails to certify on a form provided by the Board that the measurements were made using a meter.
- (2) For persons extracting groundwater in an area that becomes part of an agency's management area during the water year and is within an agency's management area as of September 30, volumetric charges required by section XXXX.1(a)(1) will be based on the volume of groundwater the person extracted during the portion of the preceding water year when the area was not within the management area of an agency.
  - (3) For persons extracting groundwater in an area that is not within the management area of an agency as of September 30, the volumetric charges required by section XXXX.1(a) will be based on the volume of groundwater the person extracted during the entire water year.
- (b) For persons required to file a report pursuant to Water Code section 5202(a)(1):
    - (1) The annual fee is \$300 per well plus a volumetric charge of \$40 per acre-foot of groundwater extracted during the preceding reporting period, except that for de minimis extractors required to file a report, the annual fee is \$100 per well.
    - (2) For persons extracting groundwater in a basin where the board has determined pursuant to Water Code Section 10735.4(c) or 10735.6(b) that the deficiencies resulting in the probationary designation have not been remedied, an additional volumetric charge of \$15 per acre-foot of groundwater extracted during the preceding reporting period shall apply to the fee required by subdivision (b)(1).
  - (c) For persons required to file a report pursuant to Water Code section 5202 who fail to file the report by December 15, the annual fee shall include an additional charge of 25% of the annual fee described in subsections (a) and (b), plus 25% of the annual fee described in subsections (a) and (b) for each 30-day period after December 15 in which the report has not been filed. In no case shall the additional charge exceed three times the annual fee described in subsections (a) and (b).

**Section XXXX.2 Exceptions.**

The following exceptions to section XXX.1 applies for annual fees for the water year ending September 30, 2017, for which the annual fee will be one of the following:

- (a) For persons extracting groundwater in an area that is within the management area of an agency by September 30, 2017, the annual fee is waived.
- (b) For persons not subject to subdivision (a)(1), the annual fee is \$300 per well with no additional volumetric charge.
- (c) For persons who fail to file a report by December 15, 2017, the annual fee shall include an additional charge of \$100, plus \$100 for each 30-day period after December 15, 2017 in which the report has not been filed. In no case shall the additional charge exceed \$1,200.

**Section XXXX.3 Meters**

- (a) A measurement device must be all of the following to be a "meter" used to measure groundwater extractions from the well for purposes of Section XXX.1:

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- (1) Equipped with a totalizer that records the total volume of groundwater extracted from the well.
  - (2) Permanently attached to the well discharge pipe between the point of extraction and the point of delivery for beneficial use.
  - (3) Calibrated to be accurate to within  $\pm$  five (5) percent by volume. The calibration must be conducted by a qualified individual upon installation and at least once every five years thereafter, or more frequently if necessary to ensure accuracy is maintained.
  - (4) Installed, maintained, operated, inspected, and monitored to ensure the accuracy requirement of subdivision (3).
  - (5) Installed in a manner such that it is readily accessible for reading, inspection, testing, repair and replacement.
  - (6) Reasonably accessible and available for inspection by an authorized representative of the board upon request.
- (b) The board may conduct a field inspection or request additional information from the extractor to determine if a meter is properly installed and meets the requirements of this section. Failure to provide reasonable access for an inspection or to provide records of calibration by a qualified individual upon request by the board is a sufficient basis for the board to determine that a meter has not been used to measure groundwater extractions for purposes of section xxx.1.

**Section XXXX.4 Enforcement.**

- (a) Failure to pay the annual fee is a violation of this regulation.
- (b) Submitting any information related to measurement methods or extraction volumes that is found to be materially false by the board is punishable by a fine of up to one thousand dollars (\$1,000) or by imprisonment in the county jail for up to six months, or both, and a civil liability for up to twenty-five thousand dollars (\$25,000), plus one thousand dollars (\$1,000) for each day on which the violation occurs. Fine and civil liability for the violation are in addition to, and do not supersede or limit, any other remedies, civil or criminal.

*Authority:* Water Code sections 1529.5, 1530, 5107, 5208, and 10736(d)(3).

*References:* Water Code sections 5202, 5202(a)(1), 5202(a)(2), 5203, 5203(e), 10735.4, and 10735.6