

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

March 6, 1995

To: Board of Directors (Finance and Insurance Committee--Information)
(Committee on Legislation--Action)

From: General Manager

Subject: Proposed Legislation - State Health Department Regulatory Reform

APPROVED
By the Board of Directors of
The Metropolitan Water District
of Southern California
at its meeting held

MAR 14 1995

[Signature]
EXECUTIVE SECRETARY

Report

The California Department of Health Services (CDHS), in a mandated report to the Legislature, proposes to restructure the regulatory fees for the Safe Drinking Water Program. A Water Industry Technical Advisory Committee (WITAC), created to advise CDHS on the report, included representatives of the Association of California Water Agencies (ACWA), American Water Works Association (AWWA), Cal-Nev Section (AWWA), California Municipal Utilities Association (CMUA), California Water Association (CWA), California Rural Water Association (CRWA), local health departments, U. S. Environmental Protection Agency (USEPA) and large and small water systems. WITAC was chaired by Mark Beuhler, Metropolitan's Director of Water Quality.

As a result of the WITAC process, CDHS has proposed to include significant regulatory reform provisions in draft legislation. Senator Calderon (Los Angeles) has introduced a spot bill, SB 1307, and discussions are underway regarding incorporating the CDHS language into SB 1307. The key regulatory reform measures included in the CDHS proposal are:

1. Elimination of the requirement for Recommended Public Health Goals (RPHGs).
2. Prohibition on CDHS adopting drinking water standards or Maximum Contaminant Levels (MCLs) more stringent than those adopted by the USEPA.
3. Opposition by the Legislature and CDHS to the USEPA imposing new regulatory mandates without federal funding (unfunded mandates).
4. Establishment of a water industry oversight committee to evaluate and advise CDHS on the drinking water program and budget.
5. Restructuring of the regulatory program fees.

The elimination of the legislative mandate for RPHGs is very significant to Metropolitan, its Member Agencies and to all public water systems. MCLs are set by USEPA and CDHS to be fully protective of public health taking cost of compliance, treatment feasibility and other practical issues into consideration. RPHGs, however, are mandated to be set considering only health impacts without regard to cost or other considerations. As a result, the RPHG for some contaminants will be much lower than the MCL. RPHGs are unique to California and are not required in any other state.

RPHGs have the potential to cause very significant costs to Metropolitan and its Member Agencies. Additional information on the impacts of RPHGs is given in Attachment No. 1.

The legislation proposed by CDHS also includes changes in the regulatory fee structure for public water systems. Currently, all systems pay an annual fee based on actual time spent by CDHS on each system (inspections, permits, etc). The amount of time is highly variable from year to year depending on CDHS staffing and priorities which has resulted in widely fluctuating and unanticipated billings. CDHS proposes to change to a service connection based fee. Additional information on the proposed changes in the regulatory fee structure is given in Attachment No. 2.

SB 1307 is currently a spot bill and does not include the actual regulatory reform language. CDHS has provided Senator Calderon with their draft proposed language and it has been reviewed by water industry representatives and Metropolitan staff. If SB 1307 is amended as proposed, it would provide the regulatory reform described in this letter.

Support for the concepts included in the CDHS legislative proposal has been indicated by AWWA, ACWA, CWA, CRWA and California Association of Environmental Health Administrators.

A number of presentations on this issue have been made to the Member Agency Managers and Member Agency Water Quality Managers. A special workshop was held on February 28, 1995 which was attended by about 20 persons from Member Agencies and their subagencies. While no one is enthused about any possible fee increases caused by restructuring the existing fee program, the significant reduction of long-term costs due to the regulatory relief proposed is recognized by all.


Recommendation

It is recommended that your Board support, in concept, the Regulatory Reform legislative proposal from the State Department of Health Services and adopt a

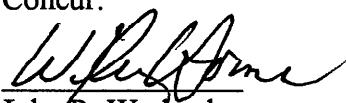
WATCH position on SB 1307 to assure that the benefits of eliminating the RPHGs are achieved in the legislation.

John R. Wodraska
General Manager

Submitted by:


Per Mark D. Beuhler
Director of Water Quality

Concur:


John R. Wodraska
General Manager

CEA/sdf
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Attachments

ATTACHMENT NO. 1

IMPACTS OF RECOMMENDED PUBLIC HEALTH GOALS (RPHGs)

RPHGs were mandated by passage of AB 21 (Sher-Palo Alto) in 1989. It should be noted that the regulatory environment at that time, which prompted Assemblyman Sher to push for RPHGs, was very different. USEPA had been moving very slowly in setting new standards for organic chemicals which were beginning to show up in drinking water wells and there was increased public concern. USEPA and CDHS have since adopted new MCLs for many additional contaminants.

In 1994, CDHS moved to adopt RPHGs in accordance with the existing legislative mandate, but the authority and responsibility to do so has recently passed to Cal-EPA. That agency may promulgate the RPHGs at any time. When adopted, RPHGs will result in significant increased costs with very little health benefit and may cause public confusion about the safety of their drinking water.

1. Costs: A January, 1993 CDHS report to the Legislature estimated the statewide cost of compliance with RPHGs by water systems larger than 10,000 service connections will be between \$24 million and \$59 million each year. These estimates did not cover arsenic, radon and trihalomethanes, for which the RPHGs will definitely be lower than the MCLs. (Cal-EPA's Office of Environmental Health Hazard Assessment has already developed the RPHG for arsenic and has indicated it will be set at 0.002 parts per billion which is 100 times lower than even the lowest expected USEPA MCL.)

2. Public confusion: All public water systems currently notify their customers annually of how their water supply compares to the MCLs. The law requires that if RPHGs are adopted, systems will also have to compare their water to the RPHGs. All drinking water systems will have some constituents that exceed RPHGs. The result will be to make the public unsure about the safety of their drinking water even though it meets all MCLs.

ATTACHMENT NO. 2

PROPOSED CHANGES
CDHS DRINKING WATER PROGRAM REGULATORY FEES

The CDHS report identifies an annual shortfall of about \$1.7 million to cover the cost of the CDHS program for surveillance of public water systems (inspections, monitoring, compliance, etc.). This shortfall is related primarily to the inadequacy of current fees on smaller water systems which require disproportionate attention in the state surveillance program

The current fee system results in highly variable and non-predictable bills that cannot be budgeted by water systems. It has resulted in inadequate state oversight of small water systems leading to high rates of noncompliance and waterborne disease outbreaks, which reflect badly on the entire water industry. There is also a lack of public health protection for people from urban areas, such as Metropolitan's service area, whenever they travel and vacation in rural areas served by small water systems.

The proposed fee system is based on the number of service connections (sc) with a flat rate of \$250 for smaller systems up to 100 sc, a declining block rate system (\$2.50 per sc up to 600 sc, \$1.00 per sc up to 10,000 sc, \$0.75 per sc thereafter) and a maximum fee for the largest systems of \$100,000. The proposed fee structure will result in a cost per service connection varying from about one dollar per month per sc for the smallest systems to 1-7 cents per month per sc for the largest systems. Under this proposal, many systems will have increased fees and some will have decreased fees. The new fees will not go into effect until FY 96-97 and will not be billed to water systems until about July, 1997. Until then, water systems will continue to pay fees under the existing program.

Because the proposed new fee system is based on service connections, Metropolitan and other agencies that only wholesale water will not be assessed fees because it would result in double billing.