



# California Groundwater Pumpers May Be Subject to Proposed "State Intervention Fees" Under SGMA

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On March 8, 2017, the State Water Quality Control Board (SWRCB) released a draft emergency regulation that would impose new fees on some groundwater extractors. Written comments are due by Friday, April 7, 2017. The purpose of the draft regulation is to recover the costs of state intervention in local sustainable groundwater management under the Sustainable Groundwater Management Act (SGMA), more specifically, under Water Code section 10735 et seq. The draft regulation itself is silent as to exactly what costs the fee will cover, although Water Code sections 1529.5 and 1530 provide authority and guidance.

The proposed fees apply to persons that are required to file reports with the SWRCB (1) because they extract groundwater from a basin that has been designated as probationary, or (2) because they extract groundwater from an area within a high- or medium-priority basin that is not within the management area of a Groundwater Sustainability Agency (GSA) (and the County does not assume the responsibility to be the GSA) by July 1, 2017 (unmanaged areas). Even basins that have one or more GSAs also may have unmanaged fringe areas covered by the proposed regulation. The determination of whether a well is located in an unmanaged area may be complicated in some cases, for example, where an area that is exempt from SGMA's groundwater management provisions is not clearly defined.

Under the proposed fee schedule, in general, the highest fees would be paid by groundwater extractors in probationary basins where deficiencies identified by the state have not been remedied, and lower fees will be paid by groundwater extractors in unmanaged areas.

- Those in probationary basins where deficiencies identified by the state have not been remedied would pay \$300 per well plus \$55 per acre-foot extracted during the preceding reporting period, October 1 - September 30.

- Those in probationary basins (no un-remedied deficiencies identified by the state) would pay \$300 per well plus \$40 per acre-foot extracted during the preceding reporting period, October 1 - September 30.
- Those in unmanaged areas that fail to provide a meter certification for each well would pay \$300 per well plus \$25 per acre-foot extracted during the prior water year, October 1 through September 30.
- Those in unmanaged areas that provide a meter certification for each well would pay \$300 per well plus \$10 per acre-foot extracted during the prior water year, October 1 through September 30.
- The draft regulation also includes penalties and an enforcement clause for those that fail to comply.

The draft regulation includes exceptions for the current water year ending September 30, 2017. After the current water year, certain categories of fee payers may be able to prorate their fees when their status changes in the middle of the water year, such as those that become part of a GSA's management area. But other categories of fee payers, such as those in probationary basins, are not entitled to prorate, and they may even be required to pay fees retroactively for periods before the basin was designated as probationary.

The draft regulation and instructions on how to submit public comments are available on the SWRCB's website.