

## 2007 Proposed Increase in the Public Water System Service Fee

### I. BACKGROUND

The Division of Health seeks legislative approval for a proposed increase in the Public Water System Service Fee from \$0.25 per service connection per month (\$3.00 per year) to \$0.30 per service connection per month (\$3.60 per year). The proposal would set a minimum fee for community and nontransient noncommunity systems of \$250 (currently \$200), and a minimum fee for transient noncommunity systems of \$125 (currently \$100). This will result in increased fee collections of approximately \$600,000. The use of these funds will, in turn, allow the Division to access additional federal funds that cannot currently be used due to a lack of state matching funds.

Currently, approximately 50% of the annual income from this fee is expended in the Public Health Laboratory. These expenditures cover the analysis and reporting of virtually all analytical tests that water systems are required to perform under the Safe Drinking Water Act. Analyses that cannot be performed by the Public Health Laboratory are outsourced to EPA certified laboratories at the expense of the Division of Health.

The balance of the annual income is expended in the Engineering Section, which provides technical assistance and implementation and enforcement of the federal drinking water regulations within Arkansas.

### II. THE NEED

The need for the fee increase has been created by the following situations that have occurred over the past few years.

- The General Revenue budget for Engineering has been cut from \$322,000 in FY02 to ~\$128,000 for FY07. Approximate loss of

funding due to general revenue budget cuts is \$200,000.

- The Public Water System Service Fee was last increased in 1993. The fee generated approximately \$2,400,000 for the first full year following the increase. The fee billing since then has increased due to increasing numbers of service connections throughout the state - \$3,158,563 for 2006. However, the funding level in real dollars has decreased by about \$83,000 due to inflation based on the consumer price index (CPI for 1994 = 1.4820, CPI for 2006 = 2.0016)

- Laboratory Costs have increased. As an example, in 2002, salaries for ADH Chemists and Microbiologists were raised between 13% and 30% in response to a severe loss of staff to a new FDA lab that opened up in Redfield. These salary increases resulted in an increased annual cost of \$100,000 in the drinking water laboratories.

- Laboratory Analysis workload increases with each new EPA regulation. Our estimated cost for analyses provided by the Division of Health for Public Water Systems for the Long Term 2 Surface Water Treatment Rule, due to take effect in 2007, is \$150,000 per year, by itself.

- EPA has ruled that we can not continue to use federal Capacity Development funds to collect compliance samples for Organic, Inorganic, and Radiochemical analysis. The four sampler positions and their supervisor will have to be moved over to the PWS fees budget, depleting the funds reserved for new and replacement laboratory equipment. This will transfer approximately \$250,000 per year to the PWS Fees budget. EPA has delayed imposing this ruling three times, first until December 31, 2005, and then each successive year. The current deadline is now December 31, 2007. EPA has made these extensions based on our plans to seek a fee increase to

cover these costs. If we fail to obtain legislative approval a second time (the legislation did not pass in 2005), we do not anticipate any additional extensions.

- Even though Federal grant funds exist over and above our current expenditure levels, we cannot access them because we don't have sufficient state funds to match them. The least restricted federal fund, the SRF State Program Management fund, requires a dollar for dollar state match. As a result, a number of positions budgeted in previous years to help keep up with the continuing onslaught of federal regulations and reporting requirements have never been filled. In addition, restrictions on some federal funds prevent the Department from utilizing them to cover these expenses.

- A Resource Needs Assessment, conducted as part of a nationwide, EPA sponsored project in 2002 identified the need for 20 additional positions in the Arkansas state drinking water program by 2005 and 30 additional positions by 2007. The reason that we have gotten by without additional personnel is that EPA has been unable to get several significant rules out on schedule. This delay deferred the needed increase in state staff by the same number of years that the adoption of the regulations was delayed. However, several of those delayed regulations (LT2 ESWTR, Stage 2 DDBPR, and Ground Water Rule) have been finalized in 2006, and the Unregulated Contaminant Monitoring Rule 2 is due to be finalized by January 2007.

The total funding losses plus proposed increased expenditures equal about \$783,000. Some of the lost funding has been replaced by using federal grants at a rate faster than the grants are being renewed. Other lost funds have been absorbed by reducing the frequency of sanitary surveys and other technical assistance visits to community public water systems. With these changes and the

\$600,000 raised by the proposed fee increase, the Division of Health anticipates being able to continue to provide all required analytical services to the water systems, as well as maintain the existing regulatory and technical assistance programs for several more years. If personnel costs estimated by the Needs Assessment hold accurate, additional funds may be needed by 2009 or 2011, depending upon when additional regulations such as the Radon Rule and the Distribution Rule are adopted.

The only anticipated opposition to the fee increase is from the Arkansas Municipal League. The Division of Health plans to conduct an education campaign for members of the League to persuade them not to oppose this increase, as they did in 2005.

The membership or the board of directors of the three major water utility organizations in the state - Arkansas Rural Water Association, Arkansas Water Works & Water Environment Association, and Arkansas Water & Wastewater Managers Association, all voted in 2006 to support the proposed fee increase.

The following is a list of regulations or proactive efforts to ensure compliance with new regulations *which have been completed* or are currently being implemented, and which were not included in cost estimates when fees were initiated in 1991 and 1993. Items shown with an asterisk (\*) require new monitoring efforts, expansion of existing monitoring efforts, or improvements in the existing analytical equipment.

#### Information Collection Rule

Consumer Confidence Rule

#### Source Water Assessment Program

State Revolving Loan Fund Program

New System Capacity Development Program

Existing System Capacity Development Program

Comprehensive Performance Evaluation Program

Area Wide Optimization Program  
 Interim Enhanced Surface Water Treatment Rule  
 \* Stage 1 Disinfectant / Disinfection ByProductsRule  
 Federal Guidelines for Operator Certification Program  
 Revised Public Notice Rule  
 \* Unregulated Contaminant Monitoring Rule  
 Increased Federal Reporting Requirements  
 Federal Locational Data Requirements  
 Infrastructure Needs Survey  
 \* Arsenic Regulation  
 Long Term 1 Enhanced Surface Water Treatment Rule  
 \* Revised Radionuclides Rule  
 Source Water Protection Program  
 Operator Certification Training Reimbursement Grant Program  
 Filter Backwash Rule  
 \* MTBE Monitoring  
 \* Long Term 2 Enhanced Surface Water Treatment Rule  
 \* Stage 2 Disinfectant / Disinfection ByProducts Rule  
 \* Ground Water Rule

The following is a list of upcoming regulations which are currently being developed by EPA and which were not included in cost estimates when fees were initiated.

- \* Radon Regulation
- \* Distribution System Rule
- \* Unregulated Contaminant Monitoring Rule 2

### III. WHAT IF?

What happens if the fee is not increased?

If the fee increase, or some other funding increase is not made available, the Division of Health will begin looking at all drinking water program functions that are not mandated by state regulation, federal regulation, or federal work plans or grant conditions, where the source of funding would allow its use elsewhere in the drinking water program. These functions will be prioritized based on public health impact, the ability of water systems to take over the function, and the

impact on the overall operation of the drinking water program. The lowest ranking functions will be dropped or reduced to allow the DOH to meet its commitments with existing funding. Discretionary Functions which would result in savings if dropped (estimated annual savings).

- Area Wide Optimization Program / Comprehensive Performance Evaluation program (\$100,000 - non Capacity Development portion).

This is a highly complex technical assistance activity to help water systems optimize their treatment process so that they can meet current and future regulations.

Failure to conduct this activity will mean more water systems will fail to comply with drinking water standards, possibly subjecting customers to unsafe water and administrative penalties.

- Consumer Confidence Report preparation for water utilities (\$50,000).

Each community water system must issue this report to their customers each year, indicating water quality and any violations of drinking water standards. Currently, DHHS staff are providing completed drafts of these reports to over 95% of the state's community public water systems.

Failure to conduct this activity will result in a significant number of violations of the regulation, resulting in EPA enforcement actions against the water systems.

- Long Term 2 Surface Water Treatment Rule Cryptosporidium monitoring (\$150,000 - new function).

On behalf of each surface water system, we have contracted for extensive analytical services to determine the degree of risk of crypto contamination of their source water.

Failure to conduct this activity means the water utilities must do so at their own expense. If they do not perform the monitoring, they may be subject to making major capital upgrades to their treatment plant.

- Compliance Sample collection (\$250,000)  
 Engineering staff collect thousands of samples each year on behalf of water systems so that they comply with federal monitoring regulations.

Failure to conduct this activity means the water utilities must do so at their own expense. If they do not perform the monitoring, customers could be at risk of drinking unsafe water, and the system will be subject to state and / or federal penalties.

- Compliance Analyses (\$2,500,000 - \$3,000,000 for all existing analyses).

The Public Health Laboratory analyzes samples on behalf of water system to ensure water quality and help the system comply with federal regulations.

Failure to conduct this activity means the water utilities must do so at their own expense. If they do not have the analyses performed, customers could be at risk of drinking unsafe water, and the system will be subject to state and / or federal penalties.

- Cross Connection Control Program (\$50,000 – however, may be necessary as part of future Distribution System Rule implementation).

This is a technical assistance program that helps water systems prevent, locate and eliminate illegal connections between the water system and other water sources of unsafe or unknown water quality.

Failure to conduct this activity will result in more cross connections, thereby potentially exposing customers to unsafe water.

For questions about the fee or the information in this pamphlet, contact your District staff or Robert Hart, P.E. in the Engineering Section.

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