



## *Fiscal Year 2022 Proposed Drinking Water Fees*

Oral Comments Made During the September 24, 2020 DEQ Fee Comment Hearing

The Division of Drinking Water (DDW) appreciates the written and verbal comments received during the September 2020 public comment period regarding the proposed exception fees. After careful consideration, DDW has decided not to pursue the implementation of the proposed exception fee at this time. Instead, we will work on developing a more comprehensive fee proposal that better balances the needs expressed during the comment period with the Division's responsibility to safeguard Utah's drinking water. We believe that by working more closely with our public drinking water system partners, we can come to a consensus on the best plan moving forward. Between now and the time to propose an alternative fee schedule in September 2021, DDW will focus on the following:

- Creating a workgroup involving external stakeholders and partners to develop a comprehensive fee schedule.
- Evaluating a variety of sustainable, balanced fee options, which may include a tiered multi-year phased fee implementation strategy.

Detailed summaries of the comments received and DDW responses to the comments are available below. We want to thank you for your comments and participation in this process. If you are interested in participating in the workgroup to help develop a viable fee proposal, we invite you to contact Nathan Lunstad (nlunstad@utah.gov or 385-239-5974) for additional details.

Thank you for your partnership,

Ying-Ying Macauley  
Interim Director  
Utah Division of Drinking Water

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### ***Oral Comment 1***

Mr. Hearing Officer. My name is David Gustin. I am actually an elected official. I'm the Mayor of Cedar Fort. As I oversee our small-town's water system it seems in the last year the fees keep building an adding up. I feel like the smaller towns where we don't have the staff, and necessarily all the knowledge that some of the larger cities do, when these fees are imposed or increased it feels more like a regressive tax and that is more impactful and hurtful to rural Utah like we are. That's my concern. As we continue to add more fees for mistakes or for issues and matters that need to be fixed it just seems like those of us who are smaller and with less resources are more likely to have issues and problems and we are also the ones with more limited budgets.

Prior to this hearing I received a letter that said there are fees imposed for each violation now. I mean we have consistently had minor violations. Again, I'm an elected official. As mayor I serve on a pro-bono basis, I don't

even get paid. I don't necessarily have staff that is particularly well trained enough to know to inform me as to what we need to be doing. Most of the time I don't even know that we need to be doing something, until after I get a letter threatening fines. And then if we don't get it done in time with our limited resources we're getting fined for those violations. And now it sounds like if we even want to get a workaround or an exception, to violation now, we have to pay anyway and so it's like either which way we're paying. I hope that provides the clarity of which fees I am referring to.

### ***Oral Comment 2***

Craig, this is Senator Scott Sandall. My comment centers around some of my very smallest districts up here. I know I am going to get to comment about this in the legislature as well, but my concern is a little bit about what was just expressed. We do have these smaller water systems up here that have a very small pool of money they can gather from. We're trying to balance that between a pay-as-you-go system and an overreaching, have everybody pay from the state side. Obviously I would like to see us get to a pay-as-you-go system. But my question and my comment revolves specifically around a concern that Ukon Water brought to my attention up here as far as exemptions that have been already given and whether or not they would be grandfathered in without paying the additional fee where there wouldn't be any additional research to the exception going forward. That situation seems a bit more along the lines of pay-as-you-go. If we can find a way when the exception is already in place and you can grandfather that in without additional fees simply because I think the workload would be much less. I'm just going to add that in and just listen to rest a call. Thank you.

### ***Oral Comments 1 & 2 Response by Former DDW Director, Marie Owens***

Yes, So with respect to the existing exceptions that Senators Sandall referenced, we have about a thousand of those on record right now within the state. We have recently gone through a legislative audit where that was a specific finding as a vulnerability to public health to have allowed those. Where do not go back and look at those and make sure that they are still protective of the public health. So, the answer to that question is we do intend to go back on all of those existing exceptions and re-evaluate them as to whether they're still appropriate to protecting public health and if they should be re-issued again. According to the legislative audit we were requested to never issue an exception on a permanent basis and always have those reviewed. We intend to follow the recommendation of the auditors. Which means that even if you have an existing exception in the next few years, you are likely to have that re-evaluated and this fee would be applicable at that point. It's why we tiered these fees. Some of them are significantly simpler than others and we are simply trying to pay for the cost of our staff to review these fees. Now these are just exceptions from rules. This is not something that every water system takes advantage of. This is permission for a water system to do something outside of our rules so it takes additional review for our staff to look at it. We felt like it was more fair to apply this cost and this load back to the water systems who were requesting it rather than to apply that to all of the water system.

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### ***Oral Comment 3***

Question here for Brigham City Water. So we're just wondering if the fees are being proposed for the drinking water permit sections if they're based on calculated costs to the division or are they meant to be punitive?

### ***Oral Comment 3 Response by Former DDW Director, Marie Owens***

The fees are based on our calculated cost and an estimate of how many hours our permitting staff spends on reviewing those. We did not want to charge on an item-by-item basis. We wanted to give the water systems some level of assurance of how much that would cost when they put the application in for an exception. That's why we put the three tiers in there. We will adjust that if we find that a given exception is actually much simpler over time, we will move it down in that tier. So, this is simply to recover the cost that our staff puts into this additional review when they are requested. This is not in any way intended to be punitive. Whether these exceptions are granted, or not, will strictly be based on the staff's recommendation and my determination of whether it is protective of public health and whether the deviation from the rule is as equal to or better protection of public health.

#### **Oral Comment 4**

My name is Steve Terry I'm with the Church of Jesus Christ of Latter-day Saints. I am wondering, Marie, as you've looked at those you said you have over a thousand exceptions. As you look at those exceptions are those clustered to any individual rules? I wonder if there would be a case if there is a clustering of those, to look at those rules and see if those rules could be modified so the rule would allow whatever type of exception may be prominently found in your number of exceptions?

#### **Oral Comment 4 Response by Former DDW Director, Marie Owens**

There are some that that are significantly more prevalent and so routine that we grant on a regular basis that we have already compiled a list of those exceptions and will be presenting those before the drinking water board for a rule change. We have found that if there are certain criteria that we are always accepting an exception on, then that should just be part of the rules have exceptions will not be required going forward. We've already identified a few of those and would welcome any recommendations be added to that list to be considered for a rule change so that exceptions are not necessary.

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#### **Oral Comment 5**

Hi, this is Mark Chalk with Taylorsville Bennion Improvement District. We sent an email regarding some of the exceptions that we've experienced in the past. Most of those are ones that really would never change with time, or would never cause a health concern issue. So we were hoping to have some kind of dialogue or permission to have some of those exceptions that don't need an expiration date be considered. I know the recommendation of the state auditor was to not allow any exceptions without expiration dates. But in our determination, I guess there are some exceptions where time will never change whether there a safety hazard or not. Whether they need a different name, or again, I think what we are looking for is just some exceptions that when you look at them and you see that they would never change, if they would be able to be considered permanent and not have to be reviewed along with some other things that you'll see in the email. That was our main concern. Thank you.

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#### **Oral Comment 6**

This is David Gardner with Water Pro and the president of Rural Water Association. As I look at this we have two exemptions. Both of them were approved in the design of our wellhead so they were approved with the division of Drinking Water then later reviewed saying we need an exemption. One of them is physically, with physics, impossible to be a backflow. The other one is kind of similar. It was approved in the process, they say it is an NSF-60 approved, but there is no device that is NSF-60 approved. So I think those things are going to be ongoing that cannot be fixed should be exempt. I think there needs to be an appeal process. Occasionally the rule does not make sense. The evaluator will even admit the rule does not make sense. Then says because of the rule you're going to be in this exemption process. I'd really like to see how the complexity of these are going to be rated. There is a lot of difference between \$400 and \$1,500. Those are basically my concerns. I think this happens all over. Things change and rules change and then things are no longer in compliance that can never be changed. That's my two cents.

#### **Oral Comment 6 Response by Former DDW Director, Marie Owens**

Yes, maybe a little bit. The comments that are made that once infrastructure is built it cannot be changed. We recognize that there is an argument to that and yet my understanding of where the legislative audit came from with this is that even though an exception may make sense at one given time, the industry continues to change. We are continuing to learn more that there's emerging contaminants and what may have been protective of public health 20 years ago may not be protecting public health anymore. We should be reviewing those on a regular

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basis. I am hearing the comments that there may be a desire to look into some sort of alternative rather than a renewable exception. At this point until we're able to determine what that criteria would be and ensure that it is meeting the spirit of the legislative audit, we intend to go back and look at all of the exceptions and review them for appropriateness and how it's protecting public health.

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### ***Oral Comment 7***

I just wanted to come back and make sure I understood a prior question and your answer. If I heard you right, and Marie, you can correct me if I am wrong. There would not be a fee charged against an exception until you do a subsequent review of them? So, anybody who has a current exception would not pay a fee until it is re-reviewed and continued?

### ***Oral Comment 7 Response by Former DDW Director, Marie Owens***

Right. That is correct. This fee would only be applicable to the review and issuance of an exception. We would not apply this fee to the existing exceptions until we cycle back through and review them. Dave asked a question about wanting to see how the tiers would be evaluated and that there is a significant difference between \$400 and \$1500. We intend to take the list of all of the exceptions we have on record and preliminarily put them into the various tiers. So, if you are requesting an exception that has been requested before, we will establish which tier that will be based on from the amount of time that it takes our staff to review it. Then we'll adjust what is in those various tiers if we need to over time. But the Water Systems will be able to know beforehand which tier it will be in as they make that request unless it's a brand new exception that we've never reviewed before. We will likely put it in the highest one just because we're not exactly certain what it would take. Then we would adjust that down if we find that it doesn't take that much time and place it in that tier for all subsequent requests that are similar to that. So, you'll want to give as much information to the Water Systems beforehand as possible. As soon as we have that list that sets each one of the exception types in the tiers, we will absolutely post that on our website and try to get that information out to all of you.

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### ***Oral Comment 8***

This is Dave Pearson with the Rural Water Association of Utah. If I could walk back to something that David Gardner said. Marie, when these tiers and the level of complexity are set, will there be an opportunity for Water Systems to interact with the division and see that they feel comfortable with the level of complexity they are being given or to perhaps dispute what they feel the complexity level should be?

### ***Oral Comment 8 Response by Former DDW Director, Marie Owens***

Not likely. We will set these tiers so that we can administer these fees as efficiently as possible. We will set this based on how much time our staff is taking so we probably will not entertain a negotiation of whether our staff should have taken 3 hours vs 10 hours to review that. It will be based on what historically what we have spent on those reviews. Again, if we start reviewing a lot of them and we are able to do them quicker we will then drop that into a lower tier. But no, we do not intend to allow Water Systems to negotiate these fees on a case-by-case basis.

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### ***Oral Comment 9***

This is Chip Short (?) from Ticaboo Utility Improvement District. I'd like to ask a follow-up comment on that. In regards to these fees Ms. Owens, we have an exemption on file that's not easily going to be resolved without a full reconstruction of a component that we have. Having said that, it is perceived as being a little unfair that after we've been granted that exception when that exception gets reviewed, which clearly again is close to a permanent exception can be, we have to pay a fee now. I don't understand how that is necessary fair in the fee structure, even

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in the tiering, unless you're going to have a tier level set at zero which essentially waives fees, for unique situations. Obviously, I would consider ours to be and I'm sure that other systems do have. The second part of that comment that I'd like to put into that is everything that you impose and that you increase becomes of burden on not just on small water systems, but it becomes a burden on those consumers as well. Small water systems operate on a very tight budget and we have to pass those expenses along which means that our water costs are going to be increased due to these fees that have to be paid. I'm wondering if any consideration has been given in regards to setting of the fee structures that are in place now in regards to that as well. Thank you.

#### ***Oral Comment 9 Response by Former DDW Director, Marie Owens***

This particular fee is not intended to be applied across the board. Not all Water Systems have exceptions in place. The small water systems aren't necessarily disproportionately hurt by this fee versus the large water systems. That being said, there are quite a few situations where facilities came on board and became regulated after they were built. The whole concept of an exception is to allow Water Systems to have the flexibility, if they choose to protect public health in a way that is not identified in our rules, but they can do that. An exception is meant to provide flexibility. This is also part of what was found in the legislative audit. It should not be a way to get out of complying with the safe drinking water rules. Some of the applications of exceptions in the past have been used for that. If it's for an alternative and provides flexibility and is in the best interest of the water system to go this route versus complying with the rule, then we will just charge this fee for the review process of that. Then the water system can have that flexibility. Water systems are always still encouraged and we would support them to follow the rules. This provides flexibility for that. So, this will not be applied across the board. It will just be applied to water systems that request this additional flexibility for their particular infrastructure. It will be based on the amount of time that that takes. We did not try to adjust this based on the Water Systems size. We wanted to tie it directly to the amount of cost and effort that the staff incurs for these unique requests.

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#### ***Oral Comment 10***

This is Brian Schaffer (?) from Ukon Water Company. I'm just like to read a brief statement on behalf of Ukon Water Company and you can comment on it if you choose to. The division said in the email that it's been granting exceptions for the decade but does not have a process to re-evaluate the appropriateness of the exceptions over time. It's the opinion of the Ukon Water Company that the appropriateness of any given exception is, or should be, re-evaluated in two ways which are already in place. Number one: During the sanitary survey. Number 2: Through the water testing and sampling program. If the tests falls outside of any state or EPA standard the exception should be reviewed, and not until that time. These two simple evaluation methods are already in place and will not add any additional financial burden to the existing workload of the drinking water division. Pre-existing exemptions should never be put on a renewal cycle but they should be as a grandfathered status and only be considered for removal or a newel for the following conditions: if there is a change or new construction to the area of the system for which the exemption was given; if it determined that the exemption it is causing a public safety issue; one or more system tests fall outside the state or EPA standards. In conclusion, the fee schedule simple, moderately complex, or complex is a very arbitrary and inappropriate way to determine fees for a small water company. It just leaves too much guessing as to what exemptions fall under that criteria. With that I'll conclude my thoughts. Thank you.

#### ***Oral Comment 10 Response by Former DDW Director, Marie Owens***

I don't know that I have any other comment on that particular one. As I understand this comment is that request to make all existing exceptions permanent or until there is a very distinct water quality issue or violation that is incurred from that. So, I just wanted to clarify that that is the request. If we were to review all the exceptions as part of the sanitary survey that would be a 3-year cycle.

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#### ***Oral Comment 11***

This is Julie Tanner from the East District Pipeline Company. I just wanted to, in addition to what has already been said, point out that presently any review processes seem to be at the sole discretion of the director and in the end it is her call. We really feel that it would be more appropriate for there to be an appeals process. I know that would add to the cost and it would take more time, but it just seems pretty arbitrary much that there should be no appeal process to whether or not an exception is granted, or how often that exception is reviewed, or whether an exception that has been paid for then is moved into a violation. It just all seems kind of arbitrary. Thank you.

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### ***Oral Comment 12***

Yes, this is Jeremy Roberts. I'm with the Southwest Utah Public Health Department. I've been down here for 3 years and I worked for the Salt Lake County Health Department for 20 years. I've noticed a significant difference between Salt Lake County and their water systems and the rural water/ Southwest that has 5 different counties within our health department. The problem is that we don't know if they've evaluated the percent of exceptions, rural or smaller water systems, compared to large water systems. My observation is that the smaller water systems would have more exceptions and they would need more exceptions than the larger Water Systems. Has that been looked at? The percentage of exceptions for smaller water systems compared to large water systems?

### ***Oral Comment 12 Response by Former DDW Director, Marie Owens***

No, I don't know the answer to that. We would have to pull the whole data set and compare them against population size. I don't have that information at hand.

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### ***Oral Comment 13***

This is Jeff Richens with Price River Water Improvement District. I know there are situations in various cities, or districts, or water companies, where plans have been submitted to the division of drinking water for review and have been approved; some for pumps, some for tanks, some for installations of piping. A year or 2, or 5, or 10 years after they've been approved suddenly they find themselves needing an exception to what was approved by the state. Now those exceptions are going to start costing the water system for having an exception that was approved by the state. Is that just a blanket when need you need to get it changed, dug up, replaced? Is that going to be considered?

### ***Oral Comment 13 Response by Former DDW Director, Marie Owens***

So I've been hearing a lot in the comments about the idea of grandfathering. I would like to add since there are more people on this meeting than I usually have to talk to water systems, you should know that there is no concept of grandfathering in the drinking water program. Drinking water is so critical to public health and things change over time that we have no concept of grandfathering. So a water system needs to be compliant with the existing rules and as those rules change, and things do change, EPA gives us new requirements that have to be met and new standards as things go along and we do not have a concept of grandfathering. So, I do recognize the frustration of this is extremely expensive infrastructure and once it's built it's difficult to change. But we do not have a concept of grandfathering. So if we find that it's put into rule and it's part of the Safe Drinking Water Act that a particular standard needs to be met, it then becomes applicable to every public water system. We have water systems that were in existence before lead and copper sampling was ever required and we never allowed them to grandfather out of copper sampling just because they were in place before that happened. So this idea of grandfathering in the drinking water program is something that we need to get beyond. We need to continue to protect public health and if that means that something gets applied we'll try to work with you and work through that and give as much timeframe as we can on those. Water systems degrade over time, they don't get better over time and so even exceptions that were okay on a temporary basis may not be okay going forward. And we've got to get over the concept of grandfathering in this program.

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### **Oral Comment 14**

This is Kimberly Allen with Goaslind Spring Water Works Company. As was said before, we have all this testing which we have to do and I don't understand why we wouldn't just wait for a review if testing doesn't show any problems. If there are not problems then why would they have to review it? It makes no sense to have all these fees and constant review and not wait until there is a problem that shows up in the testing.

### **Oral Comment 14 Response by Former DDW Director, Marie Owens**

Yes. The entire drinking water program is based on a multi-barrier concept. We have source protection, we have infrastructure, we have treatment, and we have distribution and operators. Testing is one of many barriers that are there. By the time you have received a sample result that is not compliant you have already broken through all of those barriers that are in place. The exceptions that we put in place are allowing flexibility on one of those barriers. To rely solely on water sampling is to wait until you've gone significantly too far into that process. A water sample that comes back positive for coliform or for any other contaminant, you've already blown through all of your barriers to a significant extent. Sampling is not something that should be used as your best case scenario. Sampling indicates the worst case that has happened and so we don't want to wait until there's already a water quality problem before where we resolve some of these items.

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### **Oral Comment 15**

This is Steve McIntosh. I work on a bunch of systems that are TNC. I have to support this fee thing because I have found that it gives control back to the individual systems. No one likes to pay fee no one likes to pay taxes. As far as I know the EPA is not in the business of rolling back too many rules and programs and things like that. When I was a child the Safe Drinking Water Act came out. Was my water safe? I never tested it so how would I know? All these things that come out are ultimately for protecting the public health. And the way I look at it is what's the cost of one death vs the cost of one exception? What's the cost of one baby in the hospital with blue baby syndrome because they had a high nitrate count? No one likes to go out and do extra work. But I'll tell you right now I'm out in the field exercising valves while I'm attending this hearing because I don't have the luxury of being able to do it any other way. If the state legislature has to balance their budget every year there's no other way to get this accomplished. I firmly believe we are far better with primacy from the division of drinking water that having EPA Region 8 come and and tell us how to run our water systems. Thank you.

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### **Oral Comment 16**

This is Thomas with Brigham City again. Is there any reason that we don't get points for having the certification anymore or towards the points?

### **Oral Comment 16 Response by Former DDW Director, Marie Owens**

That is not limited to this fee hearing Craig. I'm happy to answer that question, but you did say you wanted to keep the discussion on the fees. The question that was asked, if I remember correctly, was why are the Water Systems no longer getting credits for certified operators? There were actually a handful of credits that we used to give points for, One of those was emergency response, one of them was for a certified operator. When we went through and updated our IPS process several years ago and it has been at a multi-year process. It just became effective in January 2020. We pulled those credits away because what was happening was we had some systems were using those credits to hide deficiencies in their system and that was never the intent. Those point systems are for us to be able to prioritize which systems need to be enforced on and to keep track of that and to help us to communicate with the water systems and with EPA. Those credits that were in place were hiding the communication that that point value was set on. At this point when we did this update the IPS points are tied to

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public health concerns. So, a significant deficiency has a higher risk for a public health issue than minor deficiencies. Now there are no credits now to hide those.

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### ***Oral Comment 17***

I'd like to ask a question. My name is Jessie DeHay and I represent (background noise, unintelligible) Pine Tree HOA number 29086. We have 45 customers, 45 connections. A fee of \$1500 is going to hit our individual customers much harder than a system that has many more customers than we do. I would like to ask that consideration be given to applying a proportional factor to the fee especially for those systems like ours that have such a small amount of people participating. Not only do we have a small amount, most of our structures and most of our homeowners are seasonal use and they are not here all year round. They're here less than 6 months out of the year so I would just like to ask that the fees be pro-rated to allow some relief to small systems like ours so that I don't have to divide every fee by 45, rather than some city that may have several hundred or several thousand people. And that's my request. Thank you.

### ***Oral Comment 17 Response by DEQ Hearing Officer, Craig Silotti***

Thank you. I believe Marie commented on a similar comment earlier, so we'll see if there are any other comments at this time. I don't mean to dismiss your comments, but at this time we'll see if there are any other comments. Thank you. Are there other comments?

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### ***Oral Comment 18***

Daniel Astill with Murray City. Just a couple of questions. I hadn't heard that DEQ funding had been cut, so I'm wondering why this is taking place? But also, and maybe you can answer this Marie, that or address that? Have you developed a matrix of exceptions and where they would fall into that? Has that been done yet because I was looking for that information, I haven't been able to find anything and I would love to see that. My last comment. I'm sure that every district at this point in time has seen, or may have, had some experience with the Covid issue and the fact that we had to back off of shut offs and different things. We have revenues that we're still trying to collect. And I'm thinking, okay, so now the state wants to come after us for additional money. I know the state has lost a little bit of tax money too but this is really a bad time for this to take place. Those are my comments. I appreciate the opportunity.

### ***Oral Comment 18 Response by Former DDW Director, Marie Owens***

The drinking water program is primarily funded by federal dollars. We have been unable to secure State dollars to fund our program for several, several years. The federal funding is static and that has not changed in a couple of decades. We did get a building block request authorized through the state legislature last year and it was then rescinded. That is not what is generated this fee or the fees that were added last year. Those fees are about recovering the cost for Water Systems who use an inordinate amount of our resources because they are not in compliance with the Safe Drinking Water Act or with the rules that are here. So these fees aren't associated with that. But I do want to be very candid with everybody. We have not had an increase of funding for years in our program and we keep getting additional water systems that are coming on and additional items that are being asked of us. Also, the public is requiring an increased level of transparency of information to them. We are going to have to figure out how we can fund the program. The state legislature has communicated to us the desire for us to rely on fees to do that. That's not this fee that we're talking about in this proposal. I know that that there was a comment early on in this hearing about how there just seems to be more and more fees being applied. These fees are completely at your discretion within the water system. But there may be a time where there are fees not at your discretion.

There is only one source of money and I get that it is your customers. Whether we get that from the general fund it still comes from your customers. If we get it from you it's going to come from your customers. If we get it some

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other way it's going to come from your customers. That is the only source of money that is available. We have we have some serious decisions that are going to have to come down and we want to engage you and how that's going to happen. This particular fee is not related to that. The fact that we lost our funding package that was authorized is not what is triggering this fee. This fee is about making sure that all exceptions continue to be protective of public health and that those items are justified going forward as much as they were justified at the time that they were given.

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### ***Oral Comment 19***

(Brigham City Water) So what are the fines if you are not in compliance? Is there a fine schedule for that or is it just the fees?

### ***Oral Comment 19 Response by Former DDW Director, Marie Owens***

Thank you for asking that because we've been talking through these fees. These fees are associated with the workload and effort by the division. These are not fines and violations. If you find yourself in violation of the Safe Drinking Water Act, we specifically notify you of that. There is a progression to enforcement that is put in in place with us. The vast majority of you have never experienced this before. But if you get a series of violations with us or an egregious enough violation with us, we will put you under an enforcement order and give you very specific very tight deadlines to get those resolved. If you fail those then the violation fines by statute in the state is \$1,000 a day. Now we can issue less than \$1,000 a day for small systems, but we have to issue at least \$1,000 per day for large water systems once they are they to that level of violation. If at that point we still cannot get resolution, we have ways of collecting that and we had the authority to take a water system to court if it gets to that point. Worst case, we can turn it right back over to EPA because we operate this program at their pleasure. So, if they ever want to, or if we are not sufficiently enforcing on a water system that has violations, EPA can step in and do that and they charge \$15,000 a day. Those fees and violations rack up really quickly. Those fines for violation go back to the general fund of the state. Those do not come to our program in any way, and they are significant. When we have a system that runs into that we are talking about tens of thousands and up to millions of dollars really, really quickly. That is not what we are talking about here at all. That's a separate enforcement process that is handled separately. If you are in that mode you will know that you will be having conversations with us. You will be getting letters from us and if you get a letter that says you have failed to comply with an order you're being put on notice for that level of fines and violations. That's not what we're talking about here.

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### ***Oral Comment 20***

From Brigham City: Is there any reason that the sanitary surveyor could not approve or check on at the time of the survey and keep costs down because they are already there and scheduled that time to be there?

### ***Oral Comment 20 Response by Former DDW Director, Marie Owens***

It is a different process with sanitary surveys than what we do with exceptions. When we are reviewing an exception we are considering whether it meets the intent of what the original was trying to protect. That is not a feature of our sanitary surveys. Our sanitary surveys are out there to inspect facilities to ensure that there are not repairs that need to be made, changes that have been made, or degradation to the facilities. It is a different skill set that we go through and a different process that we go through.

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### ***Oral Comment 21***

(Brigham City Water) There was one other question in the comments. Ryan Goodrich asked what can we do as water districts, or purveyors to help the legislator understand that DEQ's water budget allotment should be modified?

### ***Oral Comment 21 Response by Former DDW Director, Marie Owens***

That is a really good question and I'm not certain that I've got a really good answer for that. It would be helpful to reach out to your legislators about that. If you have listened to this entire hearing we had a senator that came on and his water systems had reached out to him and said we don't want this fee. But they didn't turn around and say we don't want this fee and we think that you should fund the division of drinking water. Talking to them and expressing that desire would be helpful because what we are getting from them is that that they do not want to give us general funds and that they would like our program to be funded substantially by fees from you. You are our only regulated community and so when the legislature tells us that they want us to use more fees, that has to come back on you. The only real answer I have to that is to reach out to your legislator and maybe reach out to somebody else's legislator, your Senator, your representative. The governor's office has a lot to do with that. They initially approved the budget and so we would we would greatly appreciate your support with that because we have a job to do and I recognize that you guys are struggling with that too. We are also. We are trying to be fiscally responsible and not waste the resources that are granted to us. We take our responsibility to administer the Safe Drinking Water Act as seriously as you do. I recognize that you guys are the ones that are actually delivering the water. We rely on you and if you find value in us I'd appreciate you communicating that to those people who make the funding.

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### ***Oral Comment 22***

Marie, this is Mike Johanson with Cottonwood Mutual Water. I appreciate those comments and it just that this feels like a tax and I know that we talked a lot about our customers that we can pass it on to our customers. Unfortunately our customers are the golden goose. And each of us are the golden goose. I know personally that I get tired of having fees constantly passed on to me that are completely out of my control. I'm certain that you've given this considerable thought on how to address the issues and the best approach to do that with the limited funding that you have. I also recognized that setting a set fee amount places an undue burden on some of our smaller systems. So, if we can do something that is a little more equitable across the board than just something that is simply a flat tax rate, it would be something to be looked at. Thank you.

### ***Oral Comment 22 Response by Former DDW Director, Marie Owens***

Well I appreciate that Mike. I really do. You know I know basically any increase of funding is always referred to as a tax. As I mentioned before, there is only one source of income and that's your pocketbook, my pocketbook, and our neighbor's pocketbook. And how that money gets moved from my pocketbook to the agency it is funding is all we are ever talking about. You know all of those get referred to as a tax. I'll be honest with you, the comment that it feels like a tax, I can appreciate that. I can't be responsive to that because whether it's a fee, or whether it cost of service or whether it's you know the fact that you have to pay for your driver's license. There really is no difference between any of those so it feels like a tax and that's usually the term that is made. We just don't want it. So, calling it a tax in some way and it is supposed to make us shy away from that. But I understand what's being communicated there; it's coming from the people. It can come through as a sales tax that is moved to general funds can come to us in some other way. But this particular fee that we're talking about here with the violations, or the exceptions, is really just water system asking for additional resources from us. They are asking for an additional review from us and so we are proposing we start charging for that and that's what this particular one is. We are trying to give a flexibility and an additional service to those systems who want it, but not every system wants it. So we are only going to charge the systems who want it and ask for that. But once we do that it needs to be re-evaluated just like your driver's license. You get that when you're 16 but they don't assume that it will always be applicable and things change along the way. That's what we intend to move to with these exceptions. These are really just a license to do something differently and if you want it that's great. If it is worth it to you to ask for that extra service from us we are happy to give that to you but we are going to ask you to pay. You don't have to have it. They're not required for you to operate. There are other options and we will look at those at those items that need to be changed in the rule. We will definitely give out in a list of the exceptions and where they fall. It will not be

arbitrary. It will be based solely on how much time our staff puts towards evaluating that. If for some reason you asked for an exception and it is not granted then we can we can talk about whether that needed to be paid for up front because we did that evaluation, or whether you pay for it only when it's granted. We still need to work through that. This fee hearing is an opportunity for you guys to communicate with us almost an entire year before this would be put in place. The process that happens is we collect these comments. We give them back to the legislature and the governor's office. Then we go ahead and propose it. It's got to go through the legislative appropriations. Then they've got to authorize it and if they do, if I go all the way through that process, this fee would then be applicable in July of 2021.

We would be happy to deal with each one of you individually on what exceptions you have in place or whether you want to resolve those exceptions and get them off your record before that time. This is early in the process and we are we are communicating with you before this is finalized.

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# *Fiscal Year 2021 Proposed Drinking Water Fees*

## *Email Comments and Responses*

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### ***Email Comment 1***

I have a question about fees and fines. Has any consideration been given to such small systems as ours? We are a seasonal system serving less than 150 transient customers and we operate as a non-profit so even a \$200 fine would be both motivating and significant. My concern is not so much that we would be charged fees or fines, because we are doing all we can to be in compliance, as it is about things slipping by us.

In the past some deficiencies have either passed a due date unknown to us or were corrected but somehow never got removed from our list. I hope that can all be improved going forward, still what type of notification will I receive if a potential fee deadline is approaching?

Thanks for your help and consideration

### ***Email Comment 1 Response by Former DDW Director, Marie Owens***

The new fee is for when a water system asks for a unique review of an installation that does not strictly meet the rule. These requests require more work for our staff so we are applying a fee for them now. We do have existing fees in place for the additional work to process deficiencies and other violations such as missed samples. I encourage you to regularly check your information on WaterLink to make sure that you are aware of your deadlines and other regulatory schedules. This will also allow you to see if a repair has not been captured by our system and you need to follow up with us.

I appreciate that it can be challenging to keep track of all of your requirements and we are trying to provide as much feedback to the water systems as possible. We have nearly 1200 water systems in the state and as much as we would love to, we are not able to individually remind each water system of each deadline. If you have a suggestion of how to communicate this information to you better, please let me know.

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### ***Email Comment 2***

I understand the reasoning behind the changes and am supportive; however, certain exceptions SHOULD be permanent and not charged for when they clearly don't fit the rule that flags them.

For example: One of our exceptions is on a 24-inch overflow pipe, inside a treated water reservoir that is 250 feet above the overflow pond it would discharge to – it is physically impossible for a back flow or back siphon event to happen and should not be considered a risk (which is why we were granted an exception in the first place). If items are found that just don't fit the rule, and do not make sense, then utilities should receive a permanent exception and not be charged (or have to explain them with every sanitary survey).

### ***Email Comment 2 Response by Former DDW Director, Marie Owens***

I am trying to be very careful about agreeing to permanent exceptions since that was specifically what we got criticized for in the audit. But I do understand what you are communicating with the comment and we are trying to find a way to address those situations without having permanent exceptions.

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There have been a few situations this year where we were able to document that a rule was complied with in a particular fashion but those were situations that were not likely to be re-evaluated each survey. I would welcome any suggestions you might have on how to be responsive to the audit and address the specific situation you raised.

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### ***Email Comment 3***

We are a privately-owned spring company in the very northern part of the state. Our spring has been in existence for many, many years. Over one hundred, I believe. Our system was getting quite run down and in need of major overhaul, which we completed maybe 7 years or so ago. We made a major investment in building a new tank further up the hill for better water pressure. This tank is more than twice the size of our old one for better retention and storage. We made a major revamp of our holding tank, installed two pumps to pump to the new tank, added a chlorination system, and laid new pipe. I would guess we now have one of the premier private systems around. But that's where it gets a little tricky. As I mentioned, we are a privately-owned company, not required to sell shares to anyone. This company is owned by only about 20 shareholders. However, the number of people served is around 41-55 depending on the moment. Because of the number served we are subject to the same basic requirements and testing that large municipalities are.

We realize that having good, timely tests are necessary, and for the betterment of water systems that provide good, clean water to our shareholders, but some of the fees and such hit us harder per capita or shareholder than those larger systems with many, many more people to serve. This new "fee" proposal seems like an opportunity to grab more money for the state on the backs of the systems that already try to be compliant. Sometimes mistakes happen and testing is either late or forgotten about and that's the human side of it. Our directors / operators are not paid by the system. Only stipends given to help out because of the work we do, but they are almost not even worth mentioning. For instance, I am the secretary and a director of the company who has been responsible for all of the testing both monthly and yearly for the system. I get a \$200/year stipend.

We would hope that the State would realize and take into account that many systems in the state may be in the same boat. The proposed fees look unreasonably high per violation and we would hope the state would try and have our backs so that we can continue to have clean, AFFORDABLE systems. I urge you to please stay with the point system instead of a monetary penalty so that if there is a violation or two here and there we can work toward correcting it rather than be punished by a monetary penalty. We PLEAD with you to help.

### ***Email Comment 3 Response by Former DDW Director, Marie Owens***

It is clear that you are dedicated to your water system and that you have put great effort into making sure that you are providing safe reliable drinking water to your customers.

The new fee we are proposing is strictly on Exceptions from Rule. This is a tool that we have in place to allow water systems to request flexibility from the construction standards if they have an equal or better solution. Sometimes we also use this tool if they have a temporary solution until they can make the necessary changes. These are very much evaluated on a case by case basis and are customized for each application. This requires significantly more work for our team to process than a determination of that rule is being met. It seems appropriate to ask those asking for a unique and extra service to pay for it.

We are not moving away from the point system at all. In fact, we have recently updated it to be in better alignment with public health risk and EPA's point system. You will still be able to count on your IPS points as an indicator of how you're doing and we will still use it to prioritize our enforcement efforts. I appreciate knowing that you find this part of our program helpful.

I wasn't exactly sure from your comment if you were also referring to the new cost recovery fees on various non-compliance situations that became effective this past July but it sounded like you might have been so I would like to explain those a bit more as well. When a water system fails to take a sample or fails to make a repair within the grace period that we give, it generates a violation that we have to document, track, report to EPA and follow up on. This also takes more resources than the 90% of the other situations that we are merely confirming that the requirements have been met and move on. These fees are to cover the additional work our staff has to put into

managing these violations and to encourage water systems to be more vigilant about meeting the requirements. Every one of these fees are completely within the control of the water system to avoid. It is similar to the fact that I don't speed because I don't want to pay the speeding ticket. These are not the penalty fines for noncompliance. Those are statutorily set at up to \$1,000 a day per violation for small systems like yours. We expected, and have already seen, that these small cost recovery fees for violations are reducing how many water systems are overlooking their deadlines which is a win-win for everyone: we have to do less work, the water system has less hassle and continues to avoid the new fees, and the public is better protected. I commend you for operating your system in such a way that you haven't noticed that these cost recovery fees are already in place.

I would also like to speak to your comment of this being a money grab. It is true that the Division needs money to operate and there is only one true source of money. That is you and I and every other individual person. All funding ultimately comes from that one source and we only debate how to move it from that source to the desired program. Right now that route for the Division is primarily from your federal taxes through EPA to us. In order to secure that EPA funding the State has to match it by 20%. That 20% from the state comes from a capped allotment of the sales tax (also directly from you and I). That money is intended to be passed through to the public water systems through our State's Revolving Loan Fund. We have been struggling to keep the rest of our program running in the small amounts we are able to set aside from the SRF for operation. Both the state and federal funding has been stagnant for decades and we are in a unsustainable situation to fund our operations. We have asked the state legislature to pay for this state program but they have not yet done so. The fees that have recently been put in place are for unique additional services. They do not cover our core costs. I anticipate that in the very near future that cost will need to be shared by the water systems themselves. I welcome your feedback and participation on how that should be done in the most equitable way possible.

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#### ***Email Comment 4***

I am a Public Works Director for a city and I have been closely involved in drinking water since 1995. The city was recently granted an exception with stipulations to hurdle before it will be finalized in approximately 2 months. I understand the need for initial extra work to iron out all aspects of the rule being questioned and why that takes some extra time/resources.

Once the exception has been granted because of all the due diligence on everyone's part (water operators, field techs, engineers, circuit riders, ect.) It seems to me that the Sanitary Surveys that happen every three years have competent professionals that should be qualified to review the current details that these systems have on file for their exceptions and should be able to quickly (in most cases) determine if more evaluation above and beyond their skill level should be implemented and given that authority. I have had 4 different sanitary surveyors and one DDW engineer all agree to our exception easily and unanimously.

For us to continue to apply for this exception again and again with costs that (in my opinion) are unnecessary and time consuming is unwise. Let's get the Sanitary Survey people trained on a way to save everyone time and money to do these exception reviews since they're already coming and most should be simple reviews.

Thanks for all you do!

#### ***Email Comment 4 Response by Former DDW Director, Marie Owens***

We will make sure that this is included in the official record. We have considered tying this to sanitary surveys and will continue to look for ways to keep the review and reauthorization streamlined and commit to only charging what the actual time to review and process this is. If the renewal process is significantly easier than the initial determination, as I agree with you it is likely to be, then the cost will reflect that. At this point we are years away from that being determined.

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#### ***Email Comment 5***

I am writing in regards to the new fee structure and rules regarding Exemptions. As staff of a water system with an exemption issued and having this exemption then expire, be assessed points against the water system, I have an opinion. We have a vertical area that will not allow a fence to be placed above our sources. We had an exemption granted, (which seems like a bad statement' because I think we earned it with all of the required information and site improvements and reviews) and allowing this to be rehashed and reassessed is ridiculous. If the vertical area changes or the reason an exemption was issued, then that change, should trigger the reassessment. This could be handled at the sanitary survey level each time, without the need for expensive oversight from the Division of Drinking Water. As this transition to temporary Exceptions has taken place, communication has not been at the forefront of the implementation. Our exemption was allowed to expire and only noticed by our water operators, after the violation was issued and points assessed against the water system. This has resulted with the points being assessed and then to get the exemption reissued, has taken more time because of the lack of action by Division Staff. When the exemption has already been issued and then at every interval of the reinstatement, we were asked to wait for a "Division staff Engineering Opinion" is at best, bad form. As staff turnover at the Division of Drinking Water has occurred, has resulted in a total reassessment of the opinion of the prior Staff, at the cost of the Water systems. This is no different now with this new process and allows opinions to differ between old and new staff, at the cost of the Water Systems. Clearly the division is understaffed also, with several emails going unanswered and then when contact is established, pushed from staff to staff with no answers or clear direction. I find the process cumbersome and not effective to the result of "muddying the water" You are holding the water systems hostage and allow for more violations and points to occur, while waiting on Drinking Water staff to do their work. The result is, valuable time diverted from critical operational items to Administrative Duties and thereby strapping the small water systems, that need these exemptions for the various approved reasons. These Water Systems are already understaffed and underfunded and this allows systems to fall further behind. (we all are working hard to provide clean safe water) It appears to be a revenue building item to keep monies that are needed to operate systems, to be diverted to Administration fees at the Division of Drinking Water. Please do not implement this item. If an exemption is granted, and the conditions were met, at the time, the exemption should remain in place until the condition changes. This is standard for building regulations, if the legal conditions are met, then they are allowed to continue that use, until something changes. As stated before it appears this is a revenue builder for the Division and a hinderance for the small struggling water systems. The reoccurring fees make this appear to be "pay for the Exemption" and currency and time is the only denominator. I reiterate, please do not implement this.

#### ***Email Comment 5 Response by Former DDW Director, Marie Owens***

It sounds like you have also had a less than satisfying experience working with my staff. I would like to follow up with you on that. If there is something that I can fix to improve that I would like to do that. If you have a specific example and person that you are referring to, I would be happy to follow up on it.

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#### ***Email Comment 6***

I am writing to comment on the hearing to be held today (for which we have been given incorrect information as to the time). Our water system is committed to providing safe drinking water to all of its customers at an affordable cost. The Division revamping rules and increasing fees does not facilitate this in any way. Higher fees and penalties do not help us hire additional personnel or make the service to our residents safer or more convenient. In fact, this would just increase the burden on systems that are already struggling. The timing of these increases is particularly onerous as we all struggle with the restraints and burden of COVID-19.

Please do not implement these changes.

***Email Comment 6 Response by Former DDW Director, Marie Owens***

I recognize the added difficulties that COVID is placing on our industry right now. Please let us know if there are particular challenges that you are facing so we can assist you.

I apologize for the typo on the time of the hearing and any inconvenience it created for you.

We support your town's commitment to provide affordable and sustainably priced drinking water to your community. I know that these changes can be challenging. We will continue to provide as much support to your water system as possible.

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***Email Comment 7***

We agree that it is appropriate to periodically reevaluate some of the exceptions granted by the Division of Drinking Water to determine if the reasons for the exception are still valid or if modifications need to occur. This practice will help protect public health. That being said there are some additional questions and concerns with this new program.

***Email Comment 7 Response by Former DDW Director, Marie Owens***

Thank you so much for your thoughtful comments and for being specific and giving suggestions. These were the most helpful comments we received. While I don't have distinct answers to all the points you raised right now, we still have plenty of time to work out some of the logistics and I can speak to the direction we are leaning on them right now.

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***Email Comment 7(a)***

Some exceptions do not need an expiration date as they were written to document how the intention of the rule is being met. For example, the District has an exception for the tank overflow lines not having a physical air gap.

***Comment 7(a) Response by Former DDW Director, Marie Owens***

We agree that there are some items that have been handled in the past with Exceptions which should really be documented compliance. We will consider this when the historic exceptions are reviewed. We have already used this method instead of granting an exception with this transition in mind.

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***Email Comment 7(b)***



But they do have a physical air break with an overflow elevation such that water can never back up into the tanks. The elevations of the tanks and the overflows and therefore the possibility of backup will not change without major construction requiring a plan review (and thus a reevaluation) by the Division. Other exceptions that include mechanical or alternative infrastructure, might need regular review to ensure that it is meeting the intent of the rule. But those exceptions that are issued that will not impact public health over time, should not be reevaluated.

***Email Comment 7(b) Response by Former DDW Director, Marie Owens***

I also agree with this in principle. This difficulty is in the details to address the audit findings that there should be no permanent exceptions from rule and address this concern. We will see what we can come up with and welcome any specific ideas you have on this.

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***Email Comment 7(c)***

There is no guidance as to how frequent the exception reviews will be. Will the exceptions be reevaluated every year, every 5 years? This is needed information for planning purposes. In addition to the extra costs incurred by the Division to reevaluate the exceptions, it cost the water systems not only financially with fees, but time and often expense for consultants to readdress the exceptions and meet with Division staff for inspections.

***Comment 7(c) Response by Former DDW Director, Marie Owens***

This past year we have been issuing temporary exceptions for about 3 years. We do recognize that there may be some that are justified to go longer.

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***Email Comment 7(d)***

There is no guidance as to the level of the exception. What constitutes a Tier I, Tier II, and a Tier III permit?

***Email Comment 7(d) Response by Former DDW Director, Marie Owens***

We commit to providing this guidance. This fee hearing is almost a full year before implementation and this is on our short list of things to do. We put known exceptions into one of the three Tiers so that water systems know when they apply for an exception what it will cost.

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***Email Comment 7(e)***

How will exceptions be counted? By letter? By facility? By rule reference? In the exception referenced above, an exception was granted for 12 of our tanks for the overflow- but the exception was granted under a single file number and a single letter but it was really evaluating 3 different hydraulic situations. As these costs will need to be budgeted, the difference between 1-\$1500 fee verses 12-\$1500 fees for the same exception is significant.

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***Email Comment 7(e) Response by Former DDW Director, Marie Owens***

This is also something that we have been talking about. If there are opportunities to consolidate multiple exceptions into one then it will be easier for us and cheaper for the system. Right now I would think the grouping by rule is more likely. We have also talked about making the renewal of existing fees less expensive because the review should be easier. Many of our exceptions now are granted with specific caveats. The renewal would be checking if that monitoring or the conditions are being met.

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### ***Email Comment 7(f)***

Again, we agree with the need to periodically reevaluate some exceptions granted by the Division, but additional clarification on the program of how this will be done is needed and the Division should consider another exception category for those exceptions that are granted that will never be a concern for public health and should therefore not have an expiration date.

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### ***Email Comment 8***

I am a Utah water system operator. I disagree with a fee penalty structure for any water system unless it is blatant disregard for rules. The majority of the water systems in Utah are trying to do a good job for their clientele. But when the DWR only want to penalize the water systems that is outrageous. The DWR should be trying to help and train and suggest how to make our systems better. Whoever came up with the idea to charge a fee rather than help solve the problem is misguided. I wanted my comment recorded. If something is wrong give the water system time to repair and then check to see how they are doing. If they just disregard the help and don't try to resolve the problem then a fee or shut down can be used. Thank you.

### ***Email Comment 8 Response by Former DDW Director, Marie Owens***

I can tell from the passion of your email that you care greatly about the role that you have as a drinking water operator and I agree that this industry can be challenging. Thank you for all that you are doing to provide safe drinking water at your system. I know that there have been some challenges in the past but I see that your system is in good standing now and I know how much work it must have taken to resolve those issues.

This fee is on an additional service that only some agencies request. It is not a penalty. If a water system would like a custom review of a solution to do something different than what the rule specifically allows, then we will now charge for that custom review.

We will continue to provide as much technical assistance to struggling systems as possible. There are built in timeframes to resolve physical deficiencies and we have several tools to extend those as needed and when requested. If you have a particular concern, we would be happy to help you out. If you don't have any exceptions in place now or plan to request them in the future, this fee will not affect you at all.

### ***Email Comment 8 Response by the Division of Drinking Water***

The exception fees are not penalty fees. It is not based on a wrongdoing of the water systems but rather, it is request based.

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### ***Email Comment 9***

I appreciate the time you spent with everyone this afternoon. I know that there are many opinions out there but we are in favor of this change and realize that safety in our drinking water is a critical part of life but also that we need to pay for those services we are asking for. I am sure that there will be many questions going forward, but know that my city is in favor of this change. However, we would make one more appeal that postponing this change to the next fiscal year would be appreciated.

***Email Comment 9 Response by Former DDW Director, Marie Owens***

I just want to clarify; the fee would not begin until July 2021. This is the next fiscal year for us.

***Email Comment 9 Response by the Division of Drinking Water***

We appreciate your comment and support for the exception fees. The COVID pandemic has had profound effects on all of us, and after careful consideration, DDW has decided to postpone our exception fee implementation until our 2023 fiscal year which will start on July 1, 2022.

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***Email Comment 9(a)***

I should but I do not have a lot of sympathy for these small systems who just try to duct tape and bailing wire their systems and it has always irritated me that they are the ones who get grants for their lack of taking care of their system and we have to pay back our loans. It's time!

***Email Comment 9(a) Response by Former DDW Director, Marie Owens***

I agree it is challenging to help the small systems know that they can't always play that card to get out of complying with the SDWA.

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***Email Comment 10***

On the hearing for exceptions. I still think that thinks that were approved the design phase. Should be exempt if they do not cause a public a health risk. I have a an exemption. That I can prove with laws of physics. We can also get a letter from engineer stating such. I strongly feel that if a rule makes no since should be able to be approved. One staff member has agreed it is a not a problem. The next person says this is the rule I don't care if it doesn't makes since. I will will always say there needs to be some common sense.

***Email Comment 10 Response by Former DDW Director, Marie Owens***

I really appreciate you attending this hearing. I agree with you that we need to be applying common sense. If it makes you feel better we have already begun to consider if there is another way to handle situations like this than exceptions. We have, for instance, begun documenting in operating permits that the rule is being complied with in this specific way. The issue will then be updating operating permits and reviewing those regularly.

I hope you understand the position I needed to maintain in the hearing. I could not, in that venue, with that many people start committing to alterations to the program. I will always discuss individual cases with individual systems. But when I am talking to everyone like that, I will stick with the path we want the majority to be on.

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***Email Comment 11***

Is there a link I could follow to see the document outlining the fee changes being made? I would like to fully understand what is being discussed in today's comment meeting.

***Comment 11 Response by Former DDW Director, Marie Owens***

Here is a copy of the fee schedule that we will be hearing comments on today. The new proposals are in red. Please note that this is the fee schedule of all of DEQ so you will need to scroll down to see the Drinking Water fees.

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***Email Comment 12***

If you actually wanted me to attend, you would have sent me this email a week or two ago. Do not pretend to involve the public.

***Email Comment 12 Response by Former DDW Director, Marie Owens***

Thank you for your feedback.

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***Email Comment 13***

I am disappointed that this notice did not meet the standard of a 24 hour notice.

***Email Comment 13 Response by Former DDW Director, Marie Owens***

This notice was sent out several weeks ago but it has come to my attention that most systems do not watch for them so this was just a courtesy email to call it to your attention. We processed this email at the beginning of the week and only found out yesterday that the over 6,000 emails that we sent it out was blocked by the state's email wall so we resent them out as soon as we found out.

We are required to post all our public notices on the state public notice website. You should monitor that website if you want more timely notification.

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***Email Comment 14***

Please send me an electronic copy of the proposed fee schedule.

***Comment 14 Response by Former DDW Director, Marie Owens***

Here is the full fee schedule that was attached to the official public notice. The proposed changes are shown in red.

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***Email Comment 15***

We don't take exception to the exemption fee program in concept; however, we think there is a balance that could be achieved by not applying exemptions that could be addressed in a rule update or thru the Operating Permit process if pilot data proves the intent of the rule and public health can be achieved. An example is that it is not uncommon for systems to provide proof through piloting that a 10 gpm/ft<sup>2</sup> filter loading rate meets the design intent vs creating an exemption that lives for the life of the facility when it's not been designed at 6 gpm/ft<sup>2</sup>.

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In the case of the Design Approval Exemptions it seems like capturing it in the OP or somewhere else may make more sense and since it won't be online for a couple more years, it seems like fees shouldn't apply until that time if at all.

***Email Comment 15 Response by Former DDW Director, Marie Owens***

I understand your point here. I have asked our permitting team to start compiling items that need to have a rule change to avoid excessive exceptions. In addition, I think that we could do a better job of documenting items like you pointed out in the operating permits. There are several situations where decisions are made in design that are preferable to the rule and once approved by us cannot be undone. These need to be accounted for. We are not applying these fees to generate revenue (if that comes in the future we will be completely transparent about it). We are trying to thread the needle of being responsive to the legislative audit and reasonable with the water systems. I am confident there is a space that we can find that will do both. I am happy to talk in more detail with you on this.

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