

State Water Resources Control Board
Division of Drinking Water

Senate Bill 1263

Responses to Frequently Asked Questions (FAQ)

In January 2017, the State Water Resources Control Board (State Board), Division of Drinking Water (DDW) sent out a summary of Senate Bill 1263 (SB 1263), effective January 1, 2017, to planning departments, environmental health departments and local area formation commissions in each California County. SB 1263 amended section 116540 and added section 116527 to the California Health and Safety Code (CHSC) and added section 106.4 to the Water Code. The full text of SB 1263 may be found at the following website link:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1263.

In response to that correspondence, DDW received questions about the implementation of the bill. The following is a summary of responses to the most commonly received questions.

Question 1—How will this regulation impact state small water systems as they grow? Will they be subject to the new requirements of SB 1263 when they meet the definition of a public water system?

Response 1—Yes, the legislation applies to all new public water systems. The definition of a public water system has *not* been changed by SB 1263. A public water system is defined in CHSC Section 116275 (h) as: "a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year." Human consumption is defined in Section 116275 (e) as "the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes."

Question 2—How will counties communicate the requirements placed into the CHSC Sections 116527 and 116540 by SB 1263 to potential water systems for well permits? Well permits are typically ministerial.

Response 2—Section 116527 requires a person submitting an application for a proposed new public water system to first submit a technical report to the State Board. Subdivision (b) (2) of Section 116527 states: "In order to assist in expediting the permitting process, a person that is considering submitting an application for a permit for a proposed new public water system is encouraged, but is not required, to submit the preliminary technical report no later than seven days after submission of an application to the city or county for a building permit for any water-related improvement." Counties that are not local primacy agencies should consult their county counsel in order to determine the scope of their responsibilities under Section 116527.

Question 3—It can often take many years for the building permitting process to go to completion. How will potential water systems that are currently still within the county planning agencies pipeline be addressed?

Response 3—Section 116527 does not apply to "an application for a permit for a new public water system that was deemed complete prior to January 1, 2017." If a potential water system applicant has not submitted a complete domestic water supply permit application prior to January 1, 2017, they will need to fulfill the requirements of CHSC Sections 116527 and 116540 by submitting the specified preliminary technical report and waiting six months after submission of the report before initiating construction of any water related facilities.

Question 4—Will the six month waiting period be necessary for a rural water system where it is readily apparent that there is no option of consolidation?

Response 4—In addition to the consolidation aspect of the preliminary technical report, Section 116527 of the CHSC contains other required information as specified in Subsections (4), (5), (7), and (8). These subsections require the following:

- (4) All sources of domestic water supply for the proposed new public water system.
- (5) The estimated cost to construct, operate, and maintain the proposed new public water system, including long-term operation and maintenance costs and a potential rate structure.
- (7) A discussion of all actions taken by the applicant to pursue a contract for managerial or operational oversight from an existing public water system.
- (8) An analysis of whether a proposed new public water system's total projected water supplies available during normal, single dry, or multiple dry water years during a 20-year projection will meet the projected water demand for the service area.

These requirements apply to new public water systems regardless of whether a consolidation possibility exists or not. Therefore, the preliminary technical report will still be required.

The only exemptions to the preliminary technical report requirements, which are in Subdivision (h) of Section 116527 are for applications deemed complete prior to January 1, 2017, "an extension of, or annexation to, an existing public water system" and "a service area where an applicant certifies in writing to the state board that the applicant will not rely on the establishment of a new public water system for its water supply." In addition, subdivision (i) provides that a person can apply for an exemption for a "proposed new public water system that ... consolidates two or more existing public water systems, existing state small water systems, or other existing water systems, which results in the creation of a new public water system ... or provides water service in lieu of individual domestic wells."

Section 116527 provides: "Before a person submits an application for a permit for a proposed new public water system, the person shall first submit a preliminary technical report to the state board at least six months before initiating construction of any water-related improvement." Thus, while the State Board may approve the preliminary technical report prior to the end of the 6-month period, section 116527 (b) (1), provides that construction not be initiated until six months after the report is submitted.

Question 5—How will the six month window of time impact the Permit Streamlining Act on the part of the County and State?

Response 5—Operational permits are not included in the Permit Streamlining Act. The State Board recommends that Counties discuss any questions regarding the Permit Streamlining Act with their legal counsel.

Question 6—General concern was raised about the inability of hauled or bottled water as a source and what that may do to some rural communities, particularly for seasonal homes.

Response 6—SB 1263 added section 106.4 to the Water Code, which states that, with certain exceptions: "A city, including a charter city, or a county shall not issue a building permit for the construction of a new residential development where a source of water supply is water transported by a water hauler, bottled water, a water-vending machine, or a retail water facility." The latter terms are defined in section 106.4 Again, the definition of a public water system has not been changed and is still as defined in Section 116275 (h) of the Health and Safety Code.

For any questions with respect to the status of a particular public water system applicant, please contact the State Board's District Engineer in the applicable county for verification. A map of contact information is provided at the website listed below:

http://www.waterboards.ca.gov/drinking_water/programs/documents/ddwem/DDWdistrictofficesmap.pdf