

### Article 3. Annual Fee

#### 315. Annual Fee.

(a) Determination of Amount. The department shall determine the amount of the fee ~~as of June 30~~ each year and shall inform each owner of that amount ~~on or before October 31~~ of each year. in accordance with section 6307 of the Water Code to recover its costs expended each fiscal year for the statewide regulation of dam safety pursuant to Water Code, Division 3, Part 1. The revenue generated from annual fees generally supports the following: maintenance inspections and surveillance monitoring; reevaluation studies of existing dams; inundation map reviews; emergency and incident response; enforcement actions; public inquires and dam owner education; budgetary loan repayments; and a prudent reserve for economic uncertainties. The annual fee shall cover the fiscal year period July 1 through June 30 and be calculated in accordance with this section. Each owner shall be informed of the amount of the fee by April 30 of each year for fees that will be effective on July 1.

(1) Annual Fee Revenue (AFR) is the amount of funds that shall be collected on a fiscal-year basis to recover the costs of the Dam Safety Program. Annual Fee Revenue is equal to the Required Revenue (RR) less the Filing Fee Revenue (FFR), and adjusted for True-up, as shown in the following formula:

$$\text{AFR} = \text{RR} - \text{FFR} + \text{True-up}$$

(A) Required Revenue (RR) equals the total amount of funds required to recover the entire costs of implementation of the Dam Safety Program each fiscal year. RR is based on the number of personnel positions, including salary and wages, and staff benefits; operating expenses; contractual obligations; overhead costs; and all other direct costs, as approved in the California Budget Act for that fiscal year.

(B) Filing Fee Revenue (FFR) equals the amount of funds earned, in the current fiscal year, from application filing fees imposed pursuant to section 314.

(C) True-up refers to the excess or shortfall in the actual revenue collected or used in the prior fiscal year and shall be carried over to the next fiscal year's calculation of the total revenue requirement.

(D) Dam Safety Program refers to the department's statewide regulation of dam safety implemented pursuant to Water Code, Division 3, Part 1.

(2) Annual Schedule of Fees. All dams shall be assessed an annual fee based on the following formula:

$$\text{Annual Fee} = [\text{Administrative Fee} + (\text{Height of Dam}) \times (\text{Height of Dam Rate})]$$

(A) Administrative Fee refers to a flat fee per dam that is calculated at five percent of the AFR divided by the total number of jurisdictional dams and rounded to the nearest whole dollar.

(B) Height of dam shall have the same meaning as specified in section 6307(c) of the Water Code rounded to the nearest whole foot. In accordance with section 6008 of the Water Code, water storage elevation means that elevation of water surface which could be obtained by the existing dam or reservoir, as previously operated, were there no outflow and were the reservoir full of water.

(C) Height of Dam Rate refers to the rate calculated based on ninety-five percent of the AFR divided by the total linear feet of dam height for operable dams and rounded to the nearest whole dollar.

(3) Rate Structures. The Annual Fee incorporates three rate structure categories. These categories include:

(A) General rate, which applies to all dams that do not qualify for a reduced or limited rate under subsection (B) or (C), below.

(B) Reduced rate, which applies to dams that meet the definitions in Water Code sections 6307(e) or 6307(f), shall be limited to twenty percent of the general rate structure.

(C) Limited rate, which applies to inoperative dams defined in section 316 or dams that are described in Water Code section 6307(d). The limited rate shall only include the Administrative Fee described in subsection (a)(2)(A).

(b) Penalty for Delinquent Payment of Annual Fee. An owner who fails to pay any part of any annual fee on or before December 31, as required by Section 6307 of the Water Code, shall be penalized in accordance with section 6428 of the Water Code. Annual fees imposed pursuant to section 6307 are due July 1 and delinquencies are subject to section 6428(b).

(c) Annual fees shall be assessed for new or enlarged dams that are completed or in operation, as determined by the department, during a fiscal year in accordance with the following:

(1) The annual fee for a new or enlarged dam completed or in operation on or after July 1 through December 31 of a given fiscal year shall be the full fiscal-year rate amount described in subsection (a)(3)

(2) The annual fee for new or enlarged dams that are completed or in operation after December 31 shall be prorated based upon the date in the fiscal year the new or enlarged dam became complete or in operation, as follows: New or enlarged dams that are completed or are in operation from January 1 through March 31 shall be assessed half the annual fee pursuant to the rate specified in subsection (a)(3) for that given fiscal year. No annual fee shall be assessed for new or enlarged dams that are completed or in operation from April 1 through June 30. Thereafter, the annual fee shall be the full fiscal-year rate amount pursuant to subsection (a)(3).

(d) If unforeseen expenses, such as significant increases in operating expenses or new dam safety requirements arise during the fiscal year, the department may initiate a supplemental billing during the same fiscal period in order to recover the additional costs.

Authority: Sections 6078 and 6307, Water Code.

Reference: Sections ~~161~~ Water Code, 6002, 6002.5, 6005, 6007, 6008, 6009, 6307, 6309, 6428, 6429, Water Code

### 316. Inoperative Dams.

A dam will ~~not be considered to be substantially completed or inoperative for annual fee purposes, where the department determined that it has been rendered inoperative on other than a temporary basis upon determination by the department.~~ In making its determination, the department ~~will~~ shall consider the following circumstances, among others, with respect to the dam and its appurtenances:

- (a) Alteration of the outlet facilities, as approved by the department, to remove gates, valves controls, or other means to assure maximum possible uncontrolled water release through the outlet works.
- (b) Absence of water impounding capability under reasonably foreseeable conditions, taking into account the size of the drainage area and outlet capacity.
- (c) Absence of benefit from the dam and reservoir to the owner or others.

Inoperative dams shall be inspected by the department to ensure that the spillway remains clear and unobstructed, the outlet facilities remain fully open to assure maximum possible uncontrolled release, and the dam and appurtenances are operated and maintained in a safe manner. The department may determine that a dam is no longer inoperative when an investigation reveals that conditions ~~which that~~ rendered the dam inoperative ~~on other than a temporary basis~~ have changed. In this event, the dam will be considered ~~substantially completed or in operation~~ in operation on the date when such determination is made, ~~and the annual fee shall be charged on a pro rata basis.~~

Authority: Sections 6078, ~~Water Code~~ and 6307, Water Code.

Reference: Sections 6002, 6002.5, 6005, 6006, 6007, 6102.5, 6307, 6309, Water Code