



CALIFORNIA

**Water Boards**

STATE WATER RESOURCES CONTROL BOARD  
REGIONAL WATER QUALITY CONTROL BOARDS

# **ADMINISTRATOR POLICY HANDBOOK**

DRAFT 7/23/2019

**DRAFT**

Prepared by:

**THE DIVISION OF DRINKING WATER**

STATE WATER RESOURCES CONTROL BOARD

STATE OF CALIFORNIA

DRAFT July 2019

**Introduction**

This handbook's purpose is to provide further guidance to State Water Board staff and entities considering becoming or are appointed as Administrators of water systems as authorized in the Health and Safety Code Section 116686. Generally, the appointment of an Administrator will be considered by the State Water Board when it is necessary to provide an adequate supply of affordable, safe drinking water to disadvantaged communities and to prevent fraud, waste, and abuse. Administrators may be assigned broad duties, such as overseeing all activities of a water system and acting as its general manager, or very specific duties such as managing an infrastructure improvement project on behalf of the water system.

This handbook is the first version of a new programmatic approach and as such future revisions are anticipated in relatively short order as lessons are learned from the initial experiences.

## **DRAFT**

### **I. PURPOSE AND OBJECTIVE**

This Policy is adopted for the State Water Resources Control Board's (State Water Board's) implementation of Assembly Bill number 2501 (AB 2501), which was signed by the Governor and filed with the Secretary of State on September 28, 2018. Among other things, AB 2501 amended Health and Safety Code section 116686 to require the State Water Board to develop standards, terms and procedures for the following:

- (a) Ensuring compliance with subdivision (f) of section 116686,
- (b) Providing opportunity for public comment on selection of an administrator and the services to be provided,
- (c) Providing public access to budgets, financial information, and other documents and records related to the provision of water service to the designated water system or affected residences and to the management of the designated water system by the administrator,
- (d) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long term contracts or financing commitments, and developing system projects or plans,
- (e) Form requests to the State Water Board to reverse or modify a decision of an administrator or to request substitution of an administrator, and
- (f) Ensuring the administrator acts in the best interests of the community served,
- (g) Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options. (Health & Saf. Code, § 116686, subd. (g).)

This Policy fulfills that legislative mandate. This Policy does not address areas outside the scope of the legislative directive.

### **II. HUMAN RIGHT TO WATER**

Section 106.3 of the Water Code provides that it is the policy of the state that every human being has the right to safe, clean, affordable and accessible water adequate to human consumption, cooking, and sanitary purposes. This section requires the State

## **DRAFT**

Water Board to consider this state policy when adopting policies. The State Water Board has considered the provisions of Section 106.3 of the Water Code in establishing this Policy.

### **III. CLIMATE CHANGE**

The State Water Board seeks to reduce the effects of climate change and to promote sustainable water resources for future generations. In 2017 the State Water Board adopted Resolution No. 2017-0012 specifying a range of actions the State Water Board's divisions and offices will take to implement its climate change program. This Policy is designed to support those efforts.

### **IV. DEFINITIONS**

Terms used in this Policy shall have the meaning as Health and Safety Code section 116681.

### **V. SELECTION OF ADMINISTRATOR**

#### **A. Selection of Administrator**

- a. Prior to the selection of an administrator to provide administrative, technical, operational, and/or managerial services to a designated water system, the State Water Board shall make reasonable efforts to provide notice to all ratepayers, renters and property owners who receive water service from the designated water system of the following:
  - i. The name and qualifications of the administrator being considered by the State Water Board, and
  - ii. The particular services to be provided by the administrator being considered by the State Water Board.
- b. The State Water Board shall provide an opportunity to submit comments by mail or electronically for at least 30 days after the notice in subd. (a) is provided.
- c. The notice and comment period required by this section may be provided as part of the public hearing process required by Health and Safety Code section 116686, subd. (b)(2).

#### **B. Selection of Administrator in Emergency Situations**

- a. In an emergency situation, the State Water Board can appoint an administrator without following the process set forth in section V.A. to provide immediate administrative, technical, operational, and/or managerial

**DRAFT**

services to a designated water system as determined by the State Water Board for as long as the emergency exists.

- b. Following the appointment of an administrator in an emergency situation, the State Water Board shall initiate the process set forth in section V.A.
- c. For purposes of this section, an emergency situation is defined as a situation involving an imminent threat of serious harm to the customers of a public water system, such as, but not limited to, situations involving the effective abandonment of a water system and a water system's inability to address chronic and continuous violations of acute primary drinking water standards.

**VI. OBLIGATIONS OF ADMINISTRATOR**

**A. Conflicts of Interest**

- a. All actions taken by the administrator shall be intended to ensure the provision of drinking water which meets all water quality standards to customers of the designated water system.
- b. Prior to taking an action or participating in a decision which would create a conflict of interest as defined in Title 2, Division 6, Chapter 7 of the Fair Political Practices Commission, the administrator shall identify the conflict and submit that information to the State Water Board for consideration.

**B. Public Meetings**

- a. The administrator shall hold public meetings as required by the applicable designated water system's bylaws and/or policies, and all applicable laws and regulations. At a minimum, public meetings shall be held once every six months. At each public meeting, the administrator shall provide the community served with the following:
  - i. An update on the performance of the designated water system,
  - ii. An overview of the designated water system's financial health,
  - iii. An update on major projects or plans,
  - iv. An update on any changes to water rates, and
  - v. An update on any other significant matters related to the designated water system.
- b. The administrator shall hold a public meeting prior to taking any of the following actions:
  - i. Establishing a final operating budget,
  - ii. Entering into significant long-term contracts,
  - iii. Entering into contracts for significant planning projects or infrastructure improvements,

## **DRAFT**

- iv. Entering into significant financing commitments, including any financing contracts with the State Water Board, Division of Financial Assistance,
    - v. Adoption of final system policies, and
    - vi. Altering water rates, as set forth in Health and Safety Code section 116686, subd. (d)(2).
  - c. The administrator shall take reasonable efforts to provide a ten-day notice of the public meeting to all affected ratepayers, renters, and property owners, unless applicable law requires a longer public noticing period.
  - d. The administrator shall provide an opportunity for public comment at the public meeting.
  - e. As appropriate, the Administrator shall provide regular updates to the community served through newsletters, emails, the designated water system's website, billing flyers, and other similar means of communication about the performance of the designated water system, an overview of the designated water system's financial health, updates on major projects or plans, updates on any changes to water rates, and updates on any other significant matters related to the designated water system.
- C. Compliance with Laws and Regulations
  - a. The administrator shall comply with all applicable laws and regulations.
  - b. The administrator shall provide public notice of violations of notification levels in the method and manner required by Health and Safety Code section 11450, subd. (a).
- D. Public Access to Records
  - a. The administrator shall make copies of the following documents, if available, accessible for review and copying by the public during regular business hours:
    - i. The current operating budget,
    - ii. An organization chart of all employees and management,
    - iii. Any reports by auditors or other financial professionals regarding the budget or finances of the designated water system,
    - iv. Any current contracts for professional services,
    - v. All complaints regarding water system service to customers, and
    - vi. Any approved Post-Administrator Drinking Water Plan.
  - b. If feasible, the administrator shall make the documents specified in subd. a of this section available on the designated water system's website.
- E. Post-Administrator Drinking Water Service Plan
  - a. Within twelve months of commencing duties as an administrator, the administrator shall submit to the State Water Board a Draft Post-Administrator Drinking Water Service Plan.
  - b. The Draft Post-Administrator Drinking Water Service Plan shall contain each of the following elements:

**DRAFT**

- i. Identification and evaluation of the technical, managerial, and financial issues preventing the designated water system from serving its customers with an adequate supply of safe and affordable drinking water,
  - ii. Identification and evaluation of significant future issues the district may face,
  - iii. A detailed plan for developing the necessary technical, managerial, and financial competencies, in the shortest timeframe possible, so that the services of the administrator would no longer be required,
  - iv. The additional resources that will be needed to implement the Post-Administrator Drinking Water Service Plan,
  - v. An evaluation of the feasibility of long-term public governance or community ownership options for the designated water system, and
  - vi. An evaluation of the feasibility of connecting to or consolidating the designated water system with another public water system.
- c. The administrator shall hold at least one public meeting prior to the submission of the Draft Post-Administrator Drinking Water Service Plan to the State Water Board.
  - i. The public meeting shall comply with the notice and public comment requirements set forth in subd. (B)(c)-(d) above.
  - ii. This public meeting may be combined with other public meetings.
- d. Upon receipt of the Draft Post-Administrator Drinking Water Service Plan, the State Water Board shall have 60 days to deem the plan complete or reject it as incomplete.
- e. If the State Water Board rejects the Draft Post-Administrator Drinking Water Service Plan as incomplete, then the Administrator will have 60 days to and resubmit the plan.
- f. If the State Water Board deems the Draft Post-Administrator Drinking Water Plan complete, then the Administrator shall take reasonable efforts to provide notice of the State Water Board's consideration of approval of the plan to all ratepayers, renters, and property owners served by the water system.
  - i. The notice shall provide at least 30-days for the submission of comments by mail or electronically.
- g. The State Water Board may hold a public hearing to solicit additional public comment prior to considering approval of the Draft Post-Administrator Drinking Water Plan.
  - i. The State Water Board shall make reasonable efforts to provide a 30-day notice of the public meeting to all affected ratepayers, renters, and property owners.
  - ii. The State Water Board shall provide an opportunity for public comment at the public meeting.

## **DRAFT**

- h. Once approved by the State Water Board, the Post-Administrator Drinking Water Plan shall be posted on the State Water Board's website.
- i. The Administrator shall contact the State Water Board regarding the need to update the Post-Administrator Drinking Water Plan.

## **VII. COSTS**

- A. The State Water Board shall be responsible for the following costs:
  - a. Salary and any benefits for the Administrator;
  - b. Administrative costs attributed solely to the Administrator, including, but not limited to, additional computers, phones, furniture, and working space requirements.
  - c. Extraordinary legal, accounting, and other similar administrative and managerial fees that cannot be paid for by the designated water system's existing accounts, rates, fees, and other charges.
- B. The designated water system shall be responsible for all ordinary costs associated with operating and maintaining the water system including, but not limited to, all planning and construction projects required to meet applicable water standards and requirements
- C. Subject to fund availability and project eligibility, the State Water Board may provide funding for construction and planning projects, and ongoing operation and maintenance costs, as set forth in applicable funding guidelines and policies.

## **VIII. CHALLENGES TO SELECTION OF ADMINISTRATOR AND ADMINISTRATOR DECISIONS**

- A. Any ratepayer, renter, or property owner who receives water from a designated water system which receives services from an administrator may submit a petition to the State Water Board for the reversal or modification of a decision of an administrator or substitution of the administrator.
- B. The filing of a petition does not stay or in any way void or limit the decision or action of the administrator being challenged in the petition.
- C. Any such petition shall include the following information:
  - i. Contact information, including name and address, of the petitioner; and
  - ii. Identification of the reason(s) the petitioner seeks substitution of the Administrator or reversal or modification of the administrator's decision.
- D. A petition seeking modification or reversal of an administrator decision must be received by the State Water Board within thirty (30) days of the date of the administrator's decision. A petition seeking substitution of an administrator may be submitted at any time.

***DRAFT***

- E. Upon receipt of a timely-filed petition, the Office of Chief Counsel of the State Water Board shall review the petition and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and take action on the petition in the manner determined by the State Water Board. The State Water Board shall notify the petitioner in writing if the State Water Board will review and take action on the petition. A petition will be deemed dismissed if the State Water Board does not notify the petitioner within ninety (90) day of the receipt of the petition that the State Water Board will review and take action on the petition.