

Drinking Water Reorganization

Long Term Vision for Water Management

State policy declares that every human being has the right to clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Climate change, increasing population, and economic growth will stretch the limits of our precious water resources and further challenge California's ability to achieve this state policy. Consolidating all major water quality programs into one agency would allow the State to better manage and protect our water resources.

The Drinking Water Program (DWP) in the California Department of Public Health (CDPH) has recently made great progress in strengthening its program, including distributing money more quickly to fund projects to improve drinking water quality. In addition, with the support of the Legislature to include funding for 7 new positions, the Administration will provide critical staff and resources in 2013-2014 to increase support to small water systems. The progress achieved by the DWP has allowed the administration to consider how best to position the State to face the long-term challenges in water policy.

The Administration's goal is to align the state's water quality programs in an organizational structure that will best position the State to meet the future demands on water resulting from climate change, increasing population, and economic growth.

More specifically, the organizational structure should best ensure that:

- 1) the strengths of the DWP and the recent positive progress are preserved, while additional steps are taken to improve the program, making it more efficient, streamlined, and better able to provide effective service to communities that need access to its programs and funding;
- 2) drinking water programs are coordinated with other water quality programs to achieve maximum program efficiencies and synergies; and
- 3) the State Revolving Funds (SRFs) are operated in a coordinated, efficient and effective manner, to best leverage their resources.

In the longer term, consolidating all water quality regulation from the source through disposal under the State Water Resources Control Board (SWRCB) will best position the State to achieve these goals.

Proposed Organizational Structure

The Administration supports moving the drinking water technical programs branch, the northern and southern California drinking water field operations branches, and the Environmental Laboratory Accreditation Program (collectively, the Drinking Water Program, or DWP) from CDPH to the SWRCB. Specifically the reorganization would:

- Create a new Division of Drinking Water joining the existing Divisions of Water Quality, Water Rights, Financial Assistance, and Administrative Services.
- Move the Safe Drinking Water SRF and all funding staff under the Division of Financial Assistance where the Clean Water SRF is currently managed.
- Identify other possible benefits of program consolidation. For instance the drinking water operator certification program could be merged with the wastewater operator certification program.
- Maintain regulatory staff at the local level answering directly to the State Board through the newly created Division of Drinking Water.
- Develop MOU's between the SWRCB and CDPH to account for continuing operational relationships between the new Division of Drinking Water and any operations that remain with CDPH.

Measures to Maintain Public Health focus if the Drinking Water Program moves to SWRCB:

Maintain Public Health Expertise

The SWRCB will require that the head of the new Division of Drinking Water have a public health background. Existing DWP staff will remain in their current positions answering to the head of the new SWRCB Drinking Water Division following the move. This maintains the staff training and backgrounds that accounts for the day-to-day public health focus of the Program.

Maintain Local Primacy Agreements

Currently, CDPH has delegated authority to regulate certain small public water systems (those systems with less than 200 service connections) to some counties. These counties are referred to as local primacy counties. CDPH currently regulates systems with more than 200 service connections in these counties. The SWRCB would maintain local primacy agreements already in effect.

Transition Federal Primacy

During the transition period, SWRCB will work with U.S. EPA Region 9 to ensure that all authority necessary for drinking water regulatory program and Safe Drinking Water State Revolving Fund primacy will be transferred to SWRCB.

Maintain Emergency Response Capacity

The DWP provides assistance to water systems around the clock. This is a critical function when contamination is identified or when systems fail. Reorganization will be structured to prevent any disruption in these and other activities that have an immediate impact on public health and safety. Specifically, under the newly formed Drinking Water Division, the SWRCB would continue the existing system for responding to drinking water emergencies, in coordination with DPH's Emergency Preparedness Office. For example, CDPH has currently delegated authority to issue 'boil water' or 'do not drink' orders to DWP field offices. This delegation of authority will be maintained.

Preserve Successful Permitting Processes

There is widespread agreement that the drinking water system permitting processes are working well under the existing structure. The transition plan will ensure that these processes are preserved. The SWRCB intends to run the permitting process in the **same** manner as CDPH. No permitting or enforcement authority will be delegated to the regional water boards, nor will any role covered under an Environmental Health Officer/Local Primacy Agency. Permitting will not require Board approval or be subject to Board appellate review. Moreover, unlike for waste discharges, statutorily-mandated minimum penalties for drinking water do not apply.

Preserve Vital Collaborative Relationships

There is also widespread agreement that the local presence provided by district offices—and the collaborative relationships between DWP staff and local County and water systems staff -- is a key to a successful Drinking Water Program. While existing DWP staff would answer to a new governing body, the field staff will remain in their current positions and continue to collaborate with, and support, local entities. Although merging two programs may entail organizational changes, the SWRCB is committed to maintaining regulatory staff at the local level.

Provide Enhanced Options for Policy Changes and Promulgation of Regulations

A timely process for adoption of regulations and policies is necessary to provide the DWP the ability to adapt to California's changing drinking water needs. The reorganization provides an opportunity to allow the DWP to make policy changes to the Safe Drinking Water State Revolving Fund by using the SWRCB's Clean Water State Revolving Fund policy process. This policy process is faster than the process for adopting regulations under the Administrative Procedures Act, while still allowing for public comment. For regulations, the structure of the State Water Board provides opportunities for early public participation; the Board is also committed to a timely promulgation of drinking water regulations.

Complete Water Recycling Regulations

Moving the DWP would consolidate the recycled water permitting process into a single agency, which could improve collaboration and permit quality. A single recycled water permitting agency would allow seamless integration as the State moves forward towards reservoir augmentation and potentially to direct potable reuse. CDPH is in the final stages of drafting the groundwater replenishment regulations. Once finalized, CDPH will submit to OAL and initiate the public comment process. If for any reason the regulations are not finalized before the DWP transitions to the SWRCB, the SWRCB will prioritize the completion of regulations on groundwater replenishment with recycled water. The SWRCB will also work with stakeholders to fully fund public health reviews.

Transition Process

During the interim the Administration would convene a stakeholder taskforce to advise on the specific elements of the transition in order to provide for the most effective and non-disruptive reorganization that maintains protection of public health.

Visual of Scenario

