



Water Quality Improvement Initiative

SUMMARY

Significantly improve the ability to identify, appoint and retain qualified candidates to serve on Regional Water Quality Control Boards; significantly increase the accountability, consistency and efficiency of the Water Boards; significantly enhance the Water Boards' enforcement capabilities and increase uniformity in enforcement of water quality laws

LEGISLATIVE PROPOSALS – WATER QUALITY

The following proposals to help improve water quality require Legislative approval and signature of the Governor:

- **Focus on 10-percent Rule:** Expand the pool of candidates eligible to serve on Regional Water Boards by focusing the application of the 10-percent rule to apply on a per-region basis. The 10% rule excludes members who receive more than ten percent of their incomes from regulated interests from serving on a Regional Water Board.
- **Stagger Regional Water Board Member Term Expiration Dates:** Increase Regional Water Board stability and ease some of the difficulties in the Regional Water Board appointments process by staggering the expiration dates of Regional Water Board Member terms.
- **Reduce Regional Water Board Size:** Increase the efficiency of the Regional Water Boards and facilitate the appointment of qualified members by reducing the number of Regional Board members for each region from 9 to 7.
- **Delegate Permitting Authority to Regional Water Board Executive Officers:** Increase Regional Board efficiency by transferring the authority to issue federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) permits from the Regional Water Boards to the Regional Water Board Executive Officers. This will also increase the Governor's ability to identify, appoint and retain qualified candidates to serve on Regional Water Quality Control Boards. Until the U.S. Environmental Protection Agency formally approves the delegation of NPDES permit decisions to the Regional Board Executive Officers, the Regional Board members would continue to be restricted to receiving less than 10 percent of their income from sources under NPDES permits issued by the Regional Board, but their income from outside of their region would no longer affect their ability to serve on the board.
- **Increase Water Boards' Accountability and Effectiveness:** Increase the accountability and effectiveness of the Regional Water Boards by making the Regional Water Board Chair positions full-time paid positions that are appointed by the Governor and confirmed by the Senate.

- **Address Inconsistencies Among Regional Water Boards:** Improve consistency among Regional Water Boards by creating a new formal, public process, utilizing a council of full-time Water Board Chairs, to identify and address concerns regarding inconsistency and by requiring Regional Water Boards to develop Memorandums of Understanding (MOUs) to coordinate regulatory efforts when more than one Regional Water Board regulates the same facility. The MOUs would be subject to State Water Board review.
- **Set Priorities, Establish Performance Targets and Report Progress:** Increase the effectiveness and accountability of the Water Boards by requiring the State and Regional Water Board Chairs to establish and implement a biennial priority setting process, based on the strategic plan. Under the proposal, the Water Boards would report their progress to the Governor and Legislature every two years and the Regional Water Boards would report on their progress to the State Water Board every six months.
- **Expedite Adoption of Total Maximum Daily Loads (TMDLs):** Expedite the cumbersome process for adopting TMDLs by making the environmental review process for these actions consistent with federal requirements and by only requiring a TMDL to be affirmatively approved by the State Water Board upon its own motion or when an interested person files a petition. The Water Boards would be required to consider the costs of complying with a proposed TMDL during the TMDL adoption process. Also authorize the State Water Board to make technical changes to TMDL implementation plans rather than remanding the plans back to the Regional Water Boards to make the changes.
- **Conform Conflict of Interest Rules:** Allow the State to fully benefit from the expertise of Water Board members and conform the Water Boards' conflict of interest rules with the same rules as apply to other state officials under the Political Reform Act.

LEGISLATIVE PROPOSALS – ENVIRONMENTAL ENFORCEMENT

The following proposals to help enhance environmental enforcement require Legislative approval and signature of the Governor:

- **Establish Civil Penalties for Submittal of Fraudulent Information:** Authorize the State Water Resources Control Board and the Regional Water Quality Control Boards to administratively issue civil liabilities for persons who provide false or misleading information to the State Water Board or a Regional Water Board.
- **Remove Unnecessary Barriers To Prompt, Effective Enforcement Actions:** Remove provisions in current law that require the Water Boards to provide written notice to illegal dischargers prior to being able to issue penalties for illegal discharges and that require the Water Boards to hold a public hearing prior to referring a case to the Attorney General.
- **Enhance Civil Enforcement for Water Code Violations and Increase Efficiency:** Authorize District Attorneys and City Attorneys for cities with a population of 750,000 or more, at the request of the Water Boards, to seek civil liability for water quality violations. Currently only the Attorney General has this authority.
- **Modify Mandatory Minimum Penalties (MMPs) for Small Disadvantaged Communities' Reporting Violations:**
 - Limit to three the number of MMPs that can accrue against a small, disadvantaged community for a single missing report unless the State or Regional Water Board notifies the discharger of the violation and the potential penalties.

- Expand the number of small disadvantaged communities that are eligible to complete a compliance project instead of paying all or a portion of the MMP by increasing the population criteria from a maximum of 10,000 people to a maximum of 20,000 people.
- **Expedite MMP Payments:** Eliminate the backlog of MMPs and expedite MMP payments by requiring facilities with self reported violations to send in the MMP payment along with their report, if the facility does not contest the violation. These facilities will receive a penalty discount if the self reporting and payment of violation does not require action by the Water Boards.
- **Enhance Water Board Authority to Administratively Enforce Underground Storage Tank (UST) Requirements, and Increase Consistency with Federal Requirements:** Authorize the State Water Board to impose administrative penalties for violations of UST requirements after consulting with the local enforcement agency. Currently local agencies have the authority to administratively impose such penalties, but the State Water Board, which oversees local agencies' implementation and enforcement of UST requirements, does not have such authority in case the local agency fails to take appropriate action. In addition, conform state UST law to federal UST law by allowing the Water Boards to take enforcement action for UST failures to comply with notification requirements in current law, regardless of intent.
- **Enhance Oversight of UST Testers:** Clarify provisions of current law that all tank testers who use the authority of their license to perform work on USTs, including service technician type work such as installing, repairing, maintaining and/or calibrating monitoring equipment for a UST, are subject to regulation, including enforcement, by the State Water Board.
- **Modify Date for Enforcement Reporting:** Enable the State Water Board to submit a timely report on its enforcement efforts by changing from January 1 to July 1 of each year the deadline for the report on enforcement activities in the prior year required in current law.

ADMINISTRATIVE INITIATIVES

The following initiatives are State Water Boards' administrative changes which already are being implemented.

- **Performance Measurement System Development:** The Water Boards are currently developing and implementing performance measures for Water Board programs, beginning with their enforcement program, to measure consistency, efficiency and effectiveness. The Water Boards will be inventorying all programs and functions of the Water Boards to establish a baseline of resources needed.
- **Data Management Systems Improvements:** The Water Boards are working to significantly improve their information management and web sites to enable on-line public access to water quality information for surface, ground and coastal waters, to access a report card on the Water Boards' performance to protect those waters, and to access water rights information.
- **Bay Delta Cross Functional Team:** The Water Boards have formed a San Francisco Bay-Delta team of State Water Board and Regional Water Board staff to develop and implement a comprehensive set of water quality and water right actions to address factors within the Water Boards' authority that may be contributing to the decline of Delta fishery resources.

- **NPDES Process Reengineering:** The State Water Board is working to standardized the NPDES permit process to enable the Water Boards to achieve consistent, enforceable permits where violations can be readily identified and enforcement actions promptly taken.
- **Strategic Plan Update:** The Water Boards are in the process of updating their strategic plan, involving the input of hundreds of stakeholders, to set a course for the Water Boards to improve the effectiveness and efficiency of their programs over the next several years.
- **Regional Board Member Training:** The Water Boards have developed and provided comprehensive training for Regional Water Board members, through the Water Education Foundation, to promote shared understanding and consistency in statewide implementation of water quality laws and requirements.
- **Sewage Spill Notification Improvements:** The State Water Board has issued an order to require prompt reporting (within two hours) of sewage spills to ensure immediate notification of emergency response and public health personnel.
- **Enforcement Resources Enhancement:** The Governor's Budget includes proposed Budget Change Proposals for the 2008-2009 fiscal year to support enhancements in enforcement and other priority program areas.
- **Enforcement Reporting:** The Water Boards are improving their enforcement data systems by eliminating data entry backlogs to support accurate enforcement reporting, and enhanced and timely legislative reporting on the Water Boards' enforcement track record.