



CALIFORNIA DEPARTMENT OF WATER RESOURCES SUSTAINABLE GROUNDWATER MANAGEMENT OFFICE

Frequently Asked Questions: Department's Role in State Intervention¹

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Since the enactment of the Sustainable Groundwater Management Act (SGMA), the California Department of Water Resources (Department) and the State Water Resources Control Board (Board) have implemented administrative and regulatory functions as prescribed by SGMA. In particular, Chapter 10 of SGMA (State Evaluation and Assessment; Wat. Code §§ 10733-10733.8), directs the Department to assess and evaluate Groundwater Sustainability Plans (GSP or Plan), and Chapter 11 of SGMA (State Intervention; Wat. Code §§ 10735-10736.6), delegates authority and establishes procedures for state intervention by the Board.

While each agency is assigned distinct roles, SGMA also requires consultation between the Department and Board for, among other purposes, certain aspects of state intervention. Further, under SGMA, groundwater basins are intended to be managed through the actions of local government agencies to the greatest extent feasible, while minimizing state intervention, meaning that once a basin is subject to state intervention and under the Board's primary jurisdiction, the goal remains for that basin to establish and implement adequate local management plans and programs, exit state intervention, and return to the Department's primary jurisdiction for overseeing local implementation efforts under approved GSPs.

The Department has received inquiries from groundwater sustainability agencies (GSAs or agencies) and the public at large regarding the Department's role and responsibilities when a basin is subject to Board jurisdiction and state intervention under Chapter 11 of SGMA. This document provides the Department's response to the most frequently asked questions (FAQs). These FAQs address the circumstances that cause primary jurisdiction under SGMA to transfer between the two agencies, and the processes and relevant law that apply in typical situations; however, these FAQs do not cover all possible scenarios, and the Department may revise or update them as necessary.

1. What triggers state intervention and a transfer of primary jurisdiction from the Department to the Board under SGMA?

State intervention is mainly addressed by provisions in Chapter 11 of SGMA (commencing with Wat. Code § 10735), which establishes various triggers for state intervention by the Board (see e.g., Wat.

¹ The Department developed these FAQs in response to questions about the Department's ongoing SGMA administrative responsibilities while a basin is subject to Board jurisdiction. These FAQs do not represent or govern the role of the State Water Board during state intervention. For more information on the State Water Board's responsibilities under state intervention, please refer to their website at <https://www.waterboards.ca.gov/sgma/>.

Code § 10735.2(a)(1)-(2).). For the purposes of situations discussed in these FAQs, the most common state intervention trigger is when the Department, in consultation with the Board, determines that a GSP is inadequate or is not being implemented in a manner that will likely achieve the sustainability goal (e.g., Wat. Code § 10735.2(a)(3) and (a)(5).) The Department may at any time make such determinations, for instance at the conclusion of the Department's initial or any periodic review of any new, revised, or amended GSP, or after the Department's review of annual reports from basins. Once the Department formally issues an "inadequate" determination for a basin, the Department considers primary jurisdiction over the basin to have shifted to the Board, and, as explained in the FAQs below, the Department's role in overseeing and administering SGMA implementation in that basin changes.

2. *When does the Department consult with the Board during GSP evaluations?*

For basins that are not under Board jurisdiction, the Department will conduct an independent evaluation of any new, amended, or updated GSP or Alternative (collectively "Plan") to determine whether the Plan substantially complies with the GSP Regulations and requirements of SGMA subject to Department review (Wat. Code § 10733). The Department will conduct independent reviews of annual reports. Although the Department does not consult with the Board during its internal evaluation of a Plan or annual report, the Department considers public comments submitted to the Department's SGMA Portal website,² including any comments that have been submitted by the Board.

Once the Department has completed its evaluation of a Plan or annual report, the Department will consult with the Board if the Department considers a Plan to be inadequate or not being implemented in a manner that will likely achieve the sustainability goal for the basin. (Wat. Code § 10735.2; 23 CCR § 355.2(e)(3).) Consultation between the Department and the Board consists of one or more meetings held at the staff level to discuss relevant Plan or local management program details on a case-by-case basis. After consultation, the Department finalizes its determination and issues its staff report and findings regarding the technical contents and status of the Plan or its implementation.

3. *What role does the Department have once a basin is subject to state intervention?*

Although the Board has the direct role and authority to implement state intervention under SGMA, several provisions of SGMA Chapter 11 establish an indirect or ancillary role for the Department. For example, in making the findings associated with paragraph (3) or (5) of Water Code section 10735.2(a), related to probationary designations, the Board may rely on periodic assessments the Department has prepared and may request that the Department conduct additional assessments utilizing the Department's regulations developed pursuant to Chapter 10 (i.e., 23 C.C.R. § 350 et seq.). (Wat. Code § 10735.2(b).) If the Board designates a basin as a probationary basin pursuant to paragraph (3) or (5) of Water Code section 10735.2(a), it must also identify specific deficiencies, and the Board may request the Department to provide local agencies, within 90 days of the designation of a probationary basin, with technical recommendations to remedy the deficiencies. (Wat. Code § 10735.6(a).) SGMA also assigns the Department a continuing role to consult with the Board when the Board is determining whether a local agency has remedied the deficiencies that resulted in

² <https://sgma.water.ca.gov/portal/>

designating a basin as probationary, for purposes of the Board deciding whether to develop an interim plan for a probationary basin. (Wat. Code §§ 10735.4(c), 10735.6(b)). Finally, SGMA establishes a role for the Department to consult with the Board when the Board is making determinations regarding the adequacy of a GSP or an adjudication action for purposes of deciding whether to rescind an interim plan adopted by the Board. (Wat. Code § 10735.8(g)(2).)

Outside of Chapter 11, even when a basin is under Board jurisdiction, SGMA imposes continuing obligations on GSAs that involve the Department, such as submitting notices of GSA formation or changes in structure and the collection and review of annual reports. These obligations are further explained below.

4. *If a basin is under state intervention, can GSAs be modified or newly formed?*

Yes. Most GSAs were established during the initial years following SGMA's enactment, but local agencies and GSAs can still continue to create new GSAs, modify existing ones, and make other institutional changes. The status of a basin as being subject to state intervention does not affect the ability of local agencies to take these actions.

Since 2015, the Department's SGMA Portal website has been the publicly accessible repository of information tracking these local GSA activities and other relevant information. SGMA's GSA notice and publication requirements do not change as a result of state intervention. SGMA requires local agencies that elect to become or form GSAs within their basins to provide the Department with notice of that intent, along with certain specified information, all of which is posted to the Department's website. (Water Code § 10723.8.) The Department will continue to perform its ministerial role to accept and post complete GSA notices submitted by local agencies as required by SGMA (Wat. Code § 10723.8(b)). Similarly, GSAs should notify and work with the Department to post information and details regarding any subsequent changes in basin contacts, governance, or boundaries, among others, to established GSAs, so that information on the SGMA Portal remains up-to-date and accurate regarding local governance and implementation. For basins subject to state intervention, the Department recommends that local agencies also inform the Board of any intended GSA changes to discuss whether or how they may affect state intervention.

5. *If a basin is under state intervention, should GSAs submit new, revised, or amended Plans to the Department?*

Yes. SGMA requires GSAs to submit adopted GSPs to the Department and requires the Department to post those GSPs to its SGMA Portal website and provide an opportunity for public comments on those plans (Wat. Code § 10733.4(a) & (c)). If a basin is covered by multiple GSPs, a coordination agreement is also required.³ The law does not exclude basins under Board jurisdiction, and so a GSA eligible to do so should and will be able to submit a GSP to the Department even if the basin is subject to state intervention. However, the Department recommends that GSAs in basins subject to state intervention also inform or coordinate with the Board regarding any intended GSP changes to discuss whether or how they may affect state intervention.

All general requirements for submission and posting of GSPs to the Department's SGMA Portal website similarly apply to those from basins under state intervention (e.g., coordination agreements

³ Wat. Code § 10733.4(b)(3); 23 C.C.R. § 357.4.

for multiple GSP basins). Certain additional information may also be required to accompany any new, revised, or amended GSP submission, such as GSA resolutions or approval documents confirming the status of the submission as the official GSP for the basin.

The Department will generally not commence evaluation of new, revised, or amended GSPs from basins subject to state intervention after they are posted to the SGMA Portal website. However, the Department has discretion whether to review those GSPs and may perform a plan assessment after consultation with the Board, or if requested to by the Board. (23 C.C.R. § 355.2(d); Wat. Code § 10735.2(b).)

6. *May the public post comments on the SGMA Portal about Plans for basins under state intervention?*

Yes. Once a Plan is submitted to the Department and posted to the State Intervention tab of the SGMA Portal, a 75-day public comment period is opened. Announcement of postings and public comment periods are made via email to those [subscribed](#) to receive updates from the Sustainable Groundwater Management Office. Public comments may be submitted at any time for any GSP that has been posted to the SGMA Portal, without regard to the status of the basin or whether the Department is engaged in evaluating the plan. The Department will open a new public comment period if it undertakes a plan evaluation, either at the request of the Board while subject to Board jurisdiction, or after the Board returns the basin to Department jurisdiction (see FAQ #9). In any review, the Department will consider public comments submitted while the basin was subject to Board jurisdiction, but only during its own review process. If the Department commences an evaluation of a GSP from a basin subject to state intervention (see FAQ #3), the Department will issue a notice stating it will initiate the evaluation of the GSP via the subscription list. Comments on plans submitted to the Department will be posted on the Department's SGMA Portal and will be publicly available; however, comments intended for consideration by the Board or a particular GSA should also be separately sent to the Board or GSA, respectively to ensure their receipt of the comments.

7. *Are GSAs required to submit annual reports to the Department when their basin is subject to Chapter 11?*

Yes. An annual report must be submitted on April 1 of each year for each basin with an adopted GSP (Wat. Code § 10728) and from basins managed through an alternative submitted under Section 10733.6.⁴ The requirement for GSAs following their adoption of GSPs to submit annual reports containing specified basin information to the Department does not change while a basin is subject to state intervention, but basin status affects how the Department handles those reports. In all cases, the Department will acknowledge receipt of annual reports and provide written notice to the appropriate local agency if additional information is required. (23 CCR § 355.8(a)-(b).) However, for basins subject to state intervention, the Department will not undertake a duplicative or potentially conflicting review of annual reports to make a determination of whether the Plan is being implemented in a manner that will likely achieve the sustainability goal for the basin while that basin remains under Board jurisdiction.

⁴ Guidance on annual reports can be found in the [Groundwater Sustainability Plan Implementation: A guide to Annual Reports, Periodic Evaluations, and Plan Amendments](#).

Information in annual reports serves as both a progress report on local Plan implementation and a status update on basin conditions and therefore retains relevance for the Department's future evaluation of the effectiveness of the Plan and determination of whether the basin is meeting its sustainability goals. Although the Department does not make those determinations while the basin is under Board jurisdiction, maintaining a continuous record of basin conditions will be important to the Department's future assessments once a basin exits state intervention and returns to local control and is subject to the Department's primary jurisdiction under Chapter 10 of SGMA.

8. *If a basin is subject to state intervention, must GSAs submit periodic evaluations to the Department at least every five years?*

No. The Department only conducts periodic reviews of approved plans (23 CCR § 355.6). As a result, a GSA is not required to submit GSP Periodic Evaluations to the Department while the basin is subject to state intervention and under Board jurisdiction.

9. *Under what circumstances will the Department conduct an additional assessment and determination of a new, revised, or amended plan under Water Code 10735.2(b)?*

In basins subject to state intervention, GSAs may attempt to address deficiencies identified by the Department or Board through preparation and formal adoption of a new, revised, or amended plan. GSAs that engage in such efforts should also take care to comply with applicable SGMA procedures for making or adopting such plan changes. Any formally adopted new, revised, or amended plan, along with any required accompanying materials, should be promptly submitted for posting on the Department's SGMA Portal to ensure that the interested public and the Department have accurate information on local groundwater management and SGMA implementation efforts in those basins. (Wat. Code §10733.4(a).)

After new, revised, or amended plans from basins under Board jurisdiction have been successfully posted to the SGMA Portal, the Department, after consultation with the Board, may proceed with an evaluation of those plans if the Board requests that the department conduct an additional assessment of those plans. (Wat. Code §10735.2(b); (23 C.C.R. §355.2(d).) Upon receipt of such a request by the Board, the Department will post the Board's request on the SGMA Portal, confirm receipt, and maintain an additional period of at least 60 days for persons to submit comments to the Department about the plan. (Wat. Code §10733.4(c).) After posting the Board's request for an additional assessment, the Department will commence its evaluation of the plan and will apply and follow the procedures for evaluating plans established in the Department's GSP Regulations (23 C.C.R. §350 et seq.).

The Department will strive to complete additional assessments requested by the Board diligently and expeditiously, but any such evaluation will take, at a minimum, more than the statutorily required 60 days provided for public comments and may take up to the full two years SGMA provides to perform plan evaluations. (Wat. Code §10733.4(d).) However, a GSA is not required to wait for completion of the Department's additional assessment before implementing its plan; SGMA states that GSAs may exercise any of the powers granted by Chapter 5 of SGMA to implement SGMA, in addition to, and not a limitation on, any existing authority, if the GSA adopts and submits a plan to the Department. (Wat. Code §10725.) Furthermore, SGMA provides that nothing regarding the Department's procedures for evaluating plans shall be construed to prohibit a GSA from

implementing a GSP prior to evaluation and assessment of the plan by the Department. (Wat. Code §10733.4(e).) In performing its additional assessment, the Department will follow procedures, as applicable, in Article 6 of the GSP Regulations, which describes the methodology and criteria used by the Department to evaluate and assess plans, implementation of plans, or amendments to plans. (23 C.C.R. §355 et seq.) The Department's additional assessment will include a determination of the status of the new, amended, or revised plan as either "approved," "incomplete," or "inadequate," and may include recommended corrective actions to address any deficiencies identified by the Department. (Wat. Code §10733.4(d); 23 C.C.R. §355.2) When completed, the Department shall provide its assessment and determination to the Board and post it on the SGMA Portal. (23 C.C.R. §355.2(e).) SGMA also requires the Board to post any determination provided to the Board by the Department pursuant to Water Code section 10735.2(b) on its website and provide at least 30 days for public comment.

10. How does primary jurisdiction over a basin return to the Department after state intervention has been triggered?

The Board, not the Department, determines when a basin may exit or is no longer subject to state intervention, which depends on the specific circumstances of each basin and is beyond the scope of this FAQ addressing the Department's role in state intervention. Generally, however, the Department will assume primary jurisdiction over a basin that has shifted back to the Department under Chapter 10 of SGMA once the Board has decided that a basin no longer requires or is no longer subject to state intervention and provided written notification of that decision to the Department.

11. What is the Department's process for evaluating a new, revised, or amended GSP after a basin exits state intervention and returns to the Department's primary jurisdiction?

If the Department has not yet reviewed a new, revised, or amended Plan from an inadequate basin, then once the Board returns a basin to the Department's primary jurisdiction and oversight under Chapter 10 of SGMA (see FAQ #10), the status of the basin as reported on the Department's SGMA Portal website technically remains inadequate until the Department issues a new superseding determination that the new, revised, or amended Plan satisfies the requirements of SGMA and is in substantial compliance with the GSP Regulations.

GSAs may be required to carry out or fulfill any applicable SGMA responsibilities that were not performed while the basin was under state intervention prior to the Department commencing its evaluation. Upon exiting state intervention, GSAs should consult with the Department to discuss whether the Department requires any additional information or tasks to be performed prior to commencing GSP review. If, after review, the new, revised, or amended GSP is approved by the Department, the GSAs and basin will be subject to all provisions and requirements of Chapter 10 moving forward (e.g., annual reports, periodic evaluations, etc.). At that time, the Department and basin GSAs should coordinate and resolve any additional issues regarding how to fully integrate the basin back into local management and control subject to the Department's oversight under Chapter 10 of SGMA.