

## STATE OF CALIFORNIA:

# Role in premise plumbing solutions

POLICY BRIEF | JANUARY 2024

## Summary

The State of California, primarily through the State Water Resources Control Board (Water Board), serves as the regulator of drinking water systems and the operator of many funding programs to help systems comply with the federal Safe Drinking Water Act and associated state laws. The Water Board thus has an important role in assisting residents in identifying and addressing premise plumbing issues. However, some of the board's potential to regulate requires additional authorities and responsibilities to be granted by the state legislature.



## Recommendations

The state, and particularly the Water Board's Division of Drinking Water (DDW), can help advance solutions to premise plumbing concerns by implementing the following:

1. Improve enforcement and compliance with existing standards
2. Encourage regulated water systems to create new reporting that helps customers differentiate when tap concerns might be due to the distributional system versus premise plumbing issues

The state can also require water systems to:

3. Notify their customers on how to file tap quality concerns
4. Promptly issue a public notice to their customers after any water quality incident, as well as in advance of maintenance and repairs, including planned outages
5. Sample, test for, and publicly report on water samples for secondary standards within the distribution system, well, and treatment plants
6. Include customer complaint information about the color, odor, taste, and turbidity of the tap water within or as a companion to the consumer confidence reports



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## Detailed Recommendations

### RECOMMENDATION 1

#### Improve enforcement and compliance with existing standards

► **Background:** [DDW](#) “implements and enforces the federal and state Safe Drinking Water Acts, monitors drinking water quality, and issues permits to the roughly 7,400 public water systems throughout the state.” It is the direct [regulator](#) for all public water systems in California with 200 connections or more and all public water systems in 28 of California’s 58 counties. Public water systems’ technical, managerial, and financial capacities [vary](#) greatly and impact their ability to comply with existing standards. For instance, larger public water systems may be better able to comply with existing standards because they can more easily staff and pay for required maintenance and water testing, while smaller, “at-risk” water systems would likely need to pass off costs to their customers. Additionally, pipe materials and age vary inequitably, which means that some systems may have to entirely replace their pipes because they are older, while other systems may not need to do this.<sup>1</sup> However, DDW has some adaptability in its

enforcement process to support various types of public water systems.

► **Related Code:** California law gives the Water Board the authority to enforce the federal and state Safe Drinking Water Acts. But there is no law that says this enforcement must be proactive for maximum contaminant (MCL) exceedances that impact odor, taste, turbidity, or color (aesthetic) conditions in water system distribution networks.<sup>2</sup> Thirty counties have been delegated the authority by the Water Board to regulate [certain](#) small public water systems within their boundaries.

► **Best Practices:** DDW, in conjunction with other water board regions, divisions, and offices, must be proactive in enforcing existing standards that are likely to affect tap water trust. This might require hiring more field staff dedicated to this effort. First and foremost, DDW could work collaboratively with other regions, divisions, and offices to ensure that water systems take immediate corrective actions to eliminate any exceedances of MCLs that impact aesthetic conditions in water system distribution networks. Flushing, filtering, re-piping, blending water supplies, etc., may be necessary in these cases.

DDW can also ensure water systems that struggle to comply with primary drinking water standards receive additional funding and support through one of its existing programs. The Water Board's SAFER Program specifically [outlines](#) priority water systems to fund; these systems' secondary MCL violations could be addressed first.

To improve compliance with existing standards, more targeted funding is needed. For instance, although premise plumbing is the responsibility of property owners, the state could help by creating a designated pilot funding program or legally authorizing local programs to address premise plumbing deficiencies that overcome concerns regarding the gifting of public funds to private property owners. Given that the state has already authorized or funded programs that benefit private property owners and also advance water or energy conservation (i.e., turf replacement), supporting and/or funding programs that have health and affordability benefits stemming from greater tap water trust may not be too much of a stretch beyond current efforts. The state could also change its eligibility rules for certain programs (including SAFER) to offer grants or loans to water systems to support efforts to fix premise plumbing problems in customer households, because most customer premise plumbing concerns are too low cost to warrant the creation of a grant program directly to households.

Last, secondary MCLs are a gray area in terms of enforcement. These laws can be altered to dedicate staff to address existing standards as soon as possible and focus on addressing existing standards first and foremost.

## **RECOMMENDATION 2**

### **Encourage regulated water systems to create new reporting that helps customers differentiate when tap concerns might be due to the distributional system versus premise plumbing issues**

► **Background:** Customers would [benefit](#) from being provided with easy-to-understand information in multiple languages regarding premise plumbing and

the common aesthetic indicators of premise plumbing issues.

► **Related Code:** California's Safe Drinking Water Act [requires](#) water systems to generate certain reporting. However, there are no reporting requirements specific to increasing awareness of premise plumbing issues. There are also no reporting requirements that differentiate customer complaints according to their origin (premise plumbing, the distribution system, or no known cause).

The Dymally-Alatorre Bilingual Services Act [obligates](#) state and local agencies to provide some level of language access services to the public. However, it only requires agencies to comply with its terms to the extent funding is available.

► **Best Practices:** The state can encourage water systems to create new reporting (to the state and to water system customers) or add a section to their current consumer confidence reports that helps differentiate when tap water concerns voiced to the system were followed up on, as well as whether they were [evaluated](#) as problems with the distribution system, premise plumbing, or misperception. Water systems already have this type of reporting for other contaminants of concern that are not primary drinking water standards in the U.S. Safe Drinking Water Act. New regulations could focus on self-reported and verified impacts to odor, taste, turbidity, or color conditions of the water, which are known to impact trust levels.

## **RECOMMENDATION 3**

### **Require water systems to notify their customers on how to file tap quality concerns**

► **Background:** As the primary agency for implementing the federal Safe Drinking Water Act in California, the Water Board is responsible for ensuring water systems are operating in compliance and providing safe drinking water to customers.<sup>3</sup> But customers do not necessarily have accessible guidelines on how to file a complaint about their tap water to their water system. There are also no easily accessible guidelines on how to contact the

Water Board when a water system is operating in a noncompliant manner.

► **Related Code:** Current law states that water systems must issue public notices to their customers within certain time frames in various instances, such as when a primary drinking water standard is not met.<sup>4</sup> However, there are no laws or regulations that dictate a time frame for water systems to respond to resident complaints.

California law [mandates](#) the Water Board have designated ombudspersons to assist small businesses and coordinate and facilitate communication on recycled water.<sup>5</sup> However, there are no laws or regulations on how to inform customers to file tap water complaints and the time frames for responses.

The Dymally-Alatorre Bilingual Services Act [states](#) that “every state agency which serves a substantial number of non-English speaking people and which provides materials in English explaining services shall also provide the same type of materials in any non-English language spoken by a substantial number of the public served by the agency.” A “substantial number of the public” is defined as 5% or more of the people served by a state agency. However, the act only requires agencies to comply with its terms to the extent funding is available.

► **Best Practices:** Guidance on how to file complaints should be available in all languages that are spoken by more than 5% of customers. Complaints should be simple to file online, in person, and over the phone. Ideally, water systems should provide an initial response within two business days and fully respond to complaints as soon as possible.

The Water Board’s Office of Public Participation (OPP) could lead the creation of multilingual guideline documents and webpages for residents on how to advise the Water Board when the water system is operating in a noncompliant manner. The California Public Utilities Commission [complaint](#) webpage and the CalEPA [complaint](#) system can serve as examples. OPP should follow the guidance described in CalEPA’s [Best Practices & Guidance on Language Access Services for Persons with Limited English Proficiency](#). DDW and OPP ideally should take no more than 10

business days to respond to resident complaints. DDW could also work with OPP to document complaints received and subsequent actions.

#### RECOMMENDATION 4

### Require water systems to promptly issue a public notice to their customers after any water quality incident, as well as in advance of maintenance and repairs, including planned outages

► **Background:** Water systems must issue a public notice of a primary, health-related violation of the California Safe Drinking Water Act within 30 days of a water quality incident.<sup>6</sup> Water systems must also notify the public in advance of maintenance and repairs when there is potential for immediate adverse effects on public health or the [public right of way](#).<sup>7</sup> But no advance notice is required when maintenance and repairs may lead to an exceedance of a secondary standard related to aesthetics such as taste, odor, turbidity, or color. For example, system flushing may result in contamination that impacts the color or odor of the water. Although not considered an immediate health threat, discolored or smelly water could damage clothing washed in this water, damage water filtration devices, and/or contaminate food prepared at retail and commercial facilities. It is an important trust-building measure for water systems to notify affected customers in these circumstances.

► **Related Code:** The California Safe Drinking Water Act states that water systems must issue a public notice in various languages for primary drinking water standard violations within 30 days of a water quality incident.<sup>8</sup> But these regulations do not include any public notice requirements for secondary standard violations or maintenance and repairs. They also do not explicitly state that the public notice be easy to read. Furthermore, certain non-English speaking customers must [request](#) a public notice in their language, creating an additional barrier to information. The California Code of Regulations [requires](#) some water systems to create an operations and maintenance plan, but they do not require any public notice to accompany scheduled maintenance and repairs.

► **Best Practices:** In line with consumer confidence report regulations, the California Safe Drinking Water Act regulations could be amended to also require a [public notice](#) when there has been a water quality incident in which at least 1,000 residents or 10% of the system’s residents are likely to experience short-term exceedances of *secondary standards* for taste, odor, turbidity, or color.

A notice could be delivered to each impacted customer electronically and in person. At minimum, the notice should be sent in all languages that are spoken by 5% or more of customers, in accordance with the Dymally-Alatorre Bilingual Services Act. It should be brief and easy to read, and include the date, time frame, and system staff contact information for further questions. With the exception of emergency repairs, if advance notice cannot be provided, the water system could be responsible for all damages caused.

## RECOMMENDATION 5

### Require water systems to sample, test for, and publicly report on water samples for secondary standards within the distribution system, well, and treatment plants

► **Background:** Violations of many secondary standards are based on water sampling from a well or treatment plant site. However, many of the problems with these exceedances are typically introduced or exacerbated in the water distribution system. Taking and reporting on additional water samples within the distribution system will help water systems more quickly identify the source of the issue and take swift corrective action.

► **Related Code:** California code requires community water systems to monitor groundwater sources or distribution system entry points every three years and surface water sources or distribution system entry points annually.<sup>9</sup> However, there is no law for water systems to sample water *within* a distribution system. The California Code of Regulations [states](#) certain water systems should collect samples from “representative points” in the

distribution system, but this could be expanded to include more water systems and provide further clarity on what are “representative points.”

► **Best Practices:** The state could require and allot funding for water systems to take and test additional water samples within the distribution system to better assess primary and secondary exceedances as well as differences in distribution system versus premise plumbing issues. Taking this extra step is likely to demonstrate that the [burden](#) for remediation is largely on the property owner rather than the water system. The state could also encourage water systems to increase funding capacity to take and report on additional water samples, including at rate case proceedings given the water quality and implicit affordability benefit to customers. Testing for additional secondary contaminants can be similar to implementation of the [Lead and Copper Rule](#) to the extent possible. The state could also make home testing kits and/or home filtration devices available to residents and advocacy organizations to help identify potential premise plumbing issues.

Lastly, California [law](#) describes the Implied Warranty of Habitability, which could be changed to include a specific requirement for *potable* water, not just “hot and cold running water.”

## RECOMMENDATION 6

### Require water systems to include customer complaint information about the color, odor, taste, and turbidity of the tap water within or as a companion to the consumer confidence reports

► **Background:** Currently, there is no publicly available list or map of customer complaint results for water systems, and corrective actions are not reported unless an enforcement action is taken by the Water Board. Including summarized complaint information in the consumer confidence report is a way to increase transparency and trust between customers and their water system and can help alert the Water Board of water systems that may need further state support. For [instance](#), the Los Angeles Department of Water and Power compiles a customer

complaint data set that includes each complaint along with accompanying water quality tests and results. This data is made available for analysis and is an example of a fairly progressive practice that can be instituted statewide. However, this data set has not been made public or mapped (anonymously) for public use.

► **Related Code:** Consumer confidence reports are required by state law and the California Code of Regulations.<sup>10</sup> But these reports are not required to include a full list of complaints received (i.e., complaints about the color, odor, taste, and turbidity of water). Water Board [regulations](#) also include required language for consumer confidence reports, but it could be revised with the EPA so it is more easily understood.

► **Best Practices:** Water systems could publish a list or map of all complaints and investigations, and a description of how each complaint was addressed and/or resolved. This information should be standardized to the extent possible and could be included in the consumer confidence report itself or exist as a companion to the report (i.e., a dedicated webpage or a separate report). This information should be easy to use and searchable. The consumer confidence report should be available online and in print, and be provided in all languages that are spoken by 5% or more of customers, in accordance with the Dymally-Alatorre Bilingual Services Act.

## AUTHORSHIP

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## FOR MORE INFORMATION

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## NOTES

- 1 See [How Racism Ripples Through Rural California's Pipes](#) and [Torres-Rouff, 2006](#)
- 2 [California Health & Safety Code 116270 et. seq.](#); [California Health & Safety Code 116470](#); [California Code of Regulations Title 22](#)
- 3 Except in California counties which take primary oversight for systems with 200 or fewer connections through local primacy agencies. While about half of California counties do so, the systems overseen by counties serve a very small percentage of the California population.
- 4 [California Health & Safety Code § 116450-116485](#); [California Health & Safety Code Section 209 116378](#) and [§116455](#)
- 5 [California Government Code 11148](#) requires that each agency that significantly regulates small business designate at least one individual to serve as the small business liaison with the role and responsibility of [ombudsperson](#); [California Water Code 13552.5](#)
- 6 [California Code of Regulations Title 2, Article 18 §64463](#); [California Health & Safety Code § 116450-116485](#)
- 7 We use “public right of way” to mean a public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or easement.
- 8 [California Health & Safety Code § 116450-116485](#); [California Code of Regulations Title 2, Article 18 §64463](#)
- 9 [California Health & Safety Code 116470](#); [California Drinking Water-Related Laws](#); [California Code of Regulations Article 16 §64449](#) and [§64449.5](#)
- 10 [California Health & Safety Code 116470](#); [California Code of Regulations Title 22, Article 20 §64480](#)