



CALIFORNIA DEPARTMENT OF WATER RESOURCES SUSTAINABLE GROUNDWATER MANAGEMENT OFFICE

Actions for Local Agencies to Follow When Deciding to Become, Form, or Modify a Groundwater Sustainability Agency (GSA)

These guidelines were revised in May 2019 to address basin reprioritization results and approved basin boundary modifications. All GSA Formation Notifications are listed on the SGMA Portal at:

<https://sgma.water.ca.gov/portal/#gsa>.

INTRODUCTION

The information in this document highlights the requirements that should be followed by a local agency to become or form a groundwater sustainability agency (GSA) and to be identified as an exclusive GSA by the Department of Water Resources (DWR or Department) (see Attachment A). This document also discusses the process that should be considered when making modifications to a posted notification to formalize basin governance, adjust GSA boundaries, or withdraw from being a GSA in all or part of a basin (see Attachment B). **Additional information is available on the Department's revised GSA Frequently Asked Questions document which is available at: <https://water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management/Groundwater-Sustainable-Agencies>.**

The GSA formation requirements are in Division 6 of the Water Code, Part 2.74, Chapter 4, Section (§) 10723 *et seq.* For reference, the definitions for GSA and local agency as defined in Water Code § 10721 are as follows:

“Groundwater sustainability agency” means one or more local agencies that implement the provisions of this part [Part 2.74]. For purposes of imposing fees pursuant to Chapter 8 (commencing with [Water Code] Section 10730) or taking action to enforce a groundwater sustainability plan, “groundwater sustainability agency” also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action.

“Local agency” means a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.

One local agency can decide to become a GSA, or a combination of local agencies can decide to form a GSA by using either a joint powers agreement (JPA), a memorandum of agreement (MOA), or other legal agreement. However, a local agency will only be presumed to be the exclusive GSA within its respective service area or combined service areas. A local agency must define its service area as part of the GSA formation process.

INITIAL GSA FORMATION NOTICE

Notifications of GSA formation are managed by the Department's SGMA Portal in the GSA Formation Notification System - <https://sgma.water.ca.gov/portal/#gsa>. **All initial GSA notifications, and modifications to posted GSA notifications, must be made through the SGMA Portal.**

A local agency is required to upload the following information to the SGMA Portal to comply with the GSA formation requirements in Water Code § 10723.8(a). Effective January 1, 2016, a notice of GSA formation will not be determined complete until all applicable information is submitted – please see Attachment A.

- Information that shows the GSA formation notice was submitted to DWR within 30 days of the decision to become or form a GSA – the decision date is generally the date the local agency signed a resolution or executed a legal agreement that formed the GSA.
- A hard-copy map showing: (1) the local agency’s service area boundaries; (2) the boundaries of the basin or portion of the basin the agency intends to manage; and (3) any other agencies managing or proposing to manage groundwater within the basin.
- GIS shapefiles that show the local agency’s service area boundaries and desired GSA boundaries.
- A copy of the resolution forming the GSA.
- A copy of the legal agreement forming the GSA, if applicable.
- A copy of any new bylaws, ordinances, or new authorities developed by the local agency.
- A list of interested parties developed pursuant to Water Code § 10723.2 and an explanation of how their interests will be considered in the development and operation of the GSA and the development and implementation of the GSA’s sustainability plan.

DWR recommends that the local agency submitting the GSA formation notice include a copy of its Government Code § 6066 notice, as well as evidence demonstrating that a public hearing in accordance with Water Code § 10723(b) was held in the county or counties overlying the basin.

Additional information related to a local agency’s decision to be a GSA is welcomed and will help demonstrate to DWR, the State Water Resources Control Board (SWRCB), and other local agencies that the GSA will have the long-term technical, managerial, and financial capabilities to sustainably manage basin-wide groundwater resources and prepare a groundwater sustainability plan (GSP) or coordinated GSP for an entire groundwater basin.

Forming a GSA and Public Notification Requirements

The following summarizes the public notification and GSA formation requirements identified in SGMA. Relevant Water Code sections are excerpted for reference.

Step 1: Decision to Form a GSA

The first step in the GSA formation process is public notification that a local agency is either: (1) deciding to become a GSA; or (2) deciding to form a GSA together with other local agencies through a legal agreement. Water Code § 10723(b) requires that a local agency or group of local agencies hold a public hearing(s) in the county or counties overlying the groundwater basin as part of the decision-making process.

SGMA identifies 18 exclusive local agencies created by statute to manage groundwater within their respective statutory boundaries; however, the 18 exclusive local agencies must still decide to become GSAs and follow the same public process as all other local agencies. The 90-day period described in Water Code § 10723.8(c) does not apply to the 18 exclusive local agencies, and no other local agency can decide to be a GSA in those locally-defined statutory areas unless one of the exclusive local agencies opts out of its presumed role. The relevant Water Code sections are excerpted below.

WATER CODE § 10723

- (a) Except as provided in subdivision (c), any local agency or combination of local agencies overlying a groundwater basin may decide to become a GSA for that basin.*
- (b) Before deciding to become a GSA, and after publication of notice pursuant to Section 6066 of the Government Code, the local agency or agencies shall hold a public hearing in the county or counties overlying the basin.*
- (c) [Includes the list of 18 “exclusive local agencies” – the agencies deemed exclusive by SGMA do not become a GSA until they submit a notification of GSA formation to DWR]*

GOVERNMENT CODE § 6066

Publication of notice pursuant to this section shall be once a week for two successive weeks. Two publications in a newspaper published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The period of notice commences upon the first day of publication and terminates at the end of the fourteenth day, including therein the first day.

Step 2: Consideration of Interests of Beneficial Uses and Users of Groundwater

Water Code § 10723.2 requires GSAs to consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs. An explanation of how those interests will be considered by a GSA when developing and implementing a GSP is required as part of the GSA formation notification process. The details of the explanation will be considered by DWR staff when performing its completeness review. The relevant Water Code sections are excerpted below.

WATER CODE § 10723.2

The GSA shall consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing GSPs. These interests include, but are not limited to all of the following:

- (a) Holders of overlying groundwater rights, including:
 - (1) Agricultural users, including farmers, ranchers, and dairy professionals.*
 - (2) Domestic Well owners.**
- (b) Municipal well operators.*
- (c) Public water systems.*
- (d) Local land use planning agencies.*
- (e) Environmental users of groundwater.*
- (f) Surface water users, if there is a hydrologic connection between surface and groundwater bodies.*
- (g) The federal government, including, but not limited to, the military and managers of federal lands.*
- (h) California Native American Tribes.*
- (i) Disadvantaged communities, including, but not limited to, those served by private domestic wells or small community water systems.*
- (j) Entities listed in [Water Code] Section 10927 that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the GSA.*

Step 3: Submittal of GSA Formation Information to DWR for Completeness Review

A local agency or group of local agencies must notify DWR via the SGMA Portal of its intent to become or form a GSA. DWR will not post GSA formation notifications on the SGMA Portal that are determined to be incomplete (see Attachment A).

Once posted to the SGMA Portal, it is the responsibility of the local agency or GSA to maintain a complete notification if modifications to a posted notice are made due to basin boundary modifications, updates to resolutions, or amendments to legal agreements (see Attachment B). A complete notification includes the following information.

WATER CODE § 10723.8

- (a) Within 30 days of deciding to become or form a GSA, the local agency or combination of local agencies shall inform the department of its decision and its intent to undertake sustainable groundwater management. The notification shall include the following information, as applicable:
 - (1) The service area boundaries, the boundaries of the basin or portion of the basin the agency intends to manage pursuant to this part, and the other agencies managing or proposing to manage groundwater within the basin.**

- (2) A copy of the resolution forming the new agency.
 - (3) A copy of any new bylaws, ordinances, or new authorities adopted by the local agency.
 - (4) A list of interested parties developed pursuant to Section 10723.2 and an explanation of how their interests will be considered in the development and operation of the GSA and the development and implementation of the agency's sustainability plan.
- (b) The department shall post all complete notices received under this section on its Internet Web site within 15 days of receipt.

EXCLUSIVE GSA FORMATION TIMELINE – OVERLAPPING GSA BOUNDARIES

A local agency that decides to become a GSA within its service area, or a group of local agencies that decides to form a GSA within their combined service areas, does not effectively become the exclusive GSA for those areas until the provisions of Water Code § 10723.8(c) and (d) are met – these provisions address overlapping notifications and desired management within a basin. If multiple local agencies form separate GSAs in a basin within a 90-day period, and if any of those GSA notifications result in an overlap in the areas proposed to be managed, then none of the local agencies will become a GSA unless the overlap is resolved, which could require making a material change to a posted notice(s). The relevant Water Code sections are excerpted below. Please note that the Department will not accept a GSP from a local agency unless GSA overlap in a basin has been resolved and an exclusive GSA has been established (this does not apply to notices that were submitted to DWR during 2015, prior to Senate Bill 13 taking effect).

WATER CODE § 10723.8

- (c) The decision to become a GSA shall take effect 90 days after the department posts notice under subdivision (b) if no other local agency submits a notification under subdivision (a) of its intent to undertake groundwater management in all or a portion of the same area. If another notification is filed within the 90-day period, the decision shall not take effect unless the other notification is withdrawn or modified to eliminate any overlap in the areas proposed to be managed. The local agencies shall seek to reach agreement to allow prompt designation of a GSA. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted under subdivision (a) and the department shall post notice under subdivision (b).
- (d) Except as provided in subdivisions (e) and (f), after the decision to be a GSA takes effect, the GSA shall be presumed to be the exclusive GSA within the area of the basin within the service area of the local agency that the local agency is managing as described in the notice.

WATER CODE § 10726.8

- (b) Nothing in this part shall be construed as authorizing a local agency to make a binding determination of the water rights of any person or entity, or to impose fees or regulatory requirements on activities outside the boundaries of the local agency.

CONDITIONS FOR DETERMINING A GSA NOTIFICATION INCOMPLETE

A GSA formation notice could be determined incomplete if the provisions of Water Code § 10723.8 are not clearly addressed. An incomplete notice will not be posted on DWR's SGMA Portal. DWR staff will inform local agencies of the reason(s) for not posting and local agencies will be given an opportunity to provide additional required information, if applicable, to make their notification complete. Examples of what could deem a GSA formation notification to be incomplete include, but are not limited to, the following:

- Informing DWR of the decision to become a GSA more than 30 days after the decision was made.
- Submitting an incomplete map or insufficient information to clearly define the local agency's service area boundaries with respect to the area of the basin proposed to be managed as a GSA. GIS shapefiles showing service area boundaries and GSA boundaries are required.
- No copy of a resolution or legal agreement forming the new agency.

- No copy of any new bylaws, ordinances, or new authorities adopted, if applicable.
- An incomplete list of interested parties developed pursuant to Water Code § 10723.2 or no explanation of how their interests will be considered by the GSA when developing a GSP.
- Submitting a GSA formation notification for a basin or portion of a basin where a local agency is already presumed to be the exclusive GSA.
- Forming a GSA outside the boundaries of a basin defined in DWR’s Bulletin 118.

MAKING MODIFICATIONS TO A POSTED GSA FORMATION NOTICE

Chapter 4 of SGMA, commencing with Water Code § 10723, established the GSA formation criteria that local agencies in high- and medium-priority basins were required to follow to avoid potential State intervention following the June 30, 2017, planning deadline. The language in Chapter 4 addresses the formation of the State’s first GSAs but does not directly address how GSAs can be modified, nor does Chapter 4 address how GSAs should adapt to changing basin boundaries or changing basin names.

Overlapping GSA notices, and the consequences of overlap occurring within a 90-day period, are addressed in Water Code § 10723.8(c). The language in that section references the term “**material change from the information in the posted notice**” but only in the context of resolving overlap. If the actions or agreements of local agencies to resolve overlap involved a locally-defined material change, then “*a new notification shall be submitted under subdivision (a) and the department shall post notice under subdivision (b)*” – essentially the notification would need to be withdrawn and the process of forming the GSA would need to start over with a new 90-day period. However, if a local agency makes the determination that a material change did not occur when resolving overlap, then the changes made to the posted notice or notices, usually a new map and a new GSA-boundary shapefile, would be reviewed and reposted. The Department understands it is a local agency’s responsibility to determine what is, or is not, a material change when resolving overlap or making modifications to a posted notice. Also, it is the responsibility of a local agency or GSA to maintain a complete GSA notification due to basin boundary modifications, updates to resolutions, or amendments to legal agreements (see Attachment B).

Since June 30, 2017, several exclusive GSAs have modified their posted GSA notifications, generally to make small changes to their GSA area due to changes in jurisdictional coverage (land annexation) or to better align with basin boundaries that were modified in October 2016. Some GSAs have withdrawn individual notices and resubmitted as a coordinated JPA effort, and a few GSAs have merged multiple notifications into one. All these efforts have been coordinated with affected and adjacent GSAs.

Because of boundary modifications made by the Department in February 2019, many GSAs will be starting the process of aligning their governance to new basin boundaries or updating their submitted information to reflect management in a new basin with a new name. The process for making modifications to a posted notice is described in Attachment B.

CONTACT

Questions related to GSA formation can be directed to DWR by contacting Mark Nordberg, GSA Project Manager, at Mark.Nordberg@water.ca.gov or calling 916-651-9673. Other information and responses to frequently asked questions, as well as Region Office leads and Basin Points of Contact, are located on DWR’s GSA webpage at: <https://water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management/Groundwater-Sustainable-Agencies>.

ATTACHMENT A
Process for Reviewing Initial GSA Formation Notices and
Addressing Overlapping GSA Boundaries

1. DWR receives a GSA formation notification (notification or notice) from a local agency(s) via an automated email from the SGMA Portal.
2. DWR reviews the notice for completeness.
 - a. If incomplete, the local agency(s) is contacted and the notice is not posted. DWR informs the local agency(s) of the reason(s) for it being determined incomplete – the local agency will be given an opportunity to make the notification complete.
 - b. If complete, the notice is posted on DWR’s SGMA Portal within 15 days.
3. Complete GSA notifications are posted with (1) the posting date and (2) a date that indicates the posting-date-plus-90-calendar-days. This is the active 90-day period for that portion of the basin.
 - a. The GSA area submitted with the notice is included on DWR’s GSA Map Viewer after DWR staff determines the suitability of the GIS shapefile. The area included as a shapefile must match the area depicted on the hard-copy map in the notice.
 - b. The 90-day period does not apply to the statutory boundaries of the 18 exclusive local agencies listed in Water Code § 10723(c).
4. If no other local agency(s) submits a notification within the 90-day period in all or a portion of the same basin area, the local agency(s) that submitted the notification will become the “exclusive” GSA for the area of the basin as described in the notice.
 - a. Status as an “exclusive” GSA will be indicated on the SGMA Portal.
 - b. The basin area claimed by the GSA will be identified on the GSA Map Viewer.
 - c. If any other local agency(s) submits a notification for all or a portion of an area managed by an “exclusive” GSA, DWR will determine the notification to be incomplete.
5. If another local agency(s) submits a complete notification within an active 90-day period, and that notification results in an overlap in all or a portion of the same area of an existing notice, then:
 - a. The notification will be included on the SGMA Portal with a posting date.
 - b. The column with the posting-date-plus-90-days date for all affected notifications will be labeled with “overlap” to indicate a GSA formation overlap.
 - c. The GIS shapefiles on the GSA Map Viewer for all affected notifications will be labeled with a color that clearly indicates the extent of the GSA overlap.
6. All local agencies that are affected by overlapping notifications will remain in overlap status until the conditions stated in Water Code § 10723.8(c) are met.
 - a. “Exclusive” designation of a GSA will not proceed unless conflicting notifications are withdrawn or modified to eliminate any overlap in the areas proposed to be managed.
7. If agreement is reached involving a material change from the information in the posted notice, a new notification shall be submitted in accordance with Water Code § 10723.8(a) and the new notification will be reviewed and posted by DWR as described in this process.
 - a. It is a local agency’s responsibility to determine what is, or is not, a material change when making modifications to a posted notice.
8. If overlapping GSA notifications exist in a basin after June 30, 2017, then that basin is subject to probationary status by the SWRCB per Water Code § 10735.2(a). In addition, the groundwater extraction reporting requirements in Water Code § 5200 *et seq.* may apply to the portions of that basin where local agencies have not been identified as GSAs.
9. *Please see DWR’s GSA Frequently Asked Questions document for additional information regarding basins that have been reprioritized and basins that have modified boundaries.*

ATTACHMENT B
Making Modifications to a Posted GSA Formation Notice

1. Access your posted notice on the SGMA Portal: <https://sgma.water.ca.gov/portal/#gsa>.
2. Make a determination of material change.
 - a. If a material change has occurred, then the posted notice should be withdrawn, and a new notice should be submitted. The new notice will have a new 90-day period established until the local agency(s) becomes an exclusive GSA. The timing of withdrawing a notice could create an unmanaged area. Coordination with the SWRCB and the county(s) overlying the affected basin is encouraged if an unmanaged area will be created due to a withdrawn notice.
 - b. If a material change has not occurred, then continue to edit the GSA notice as necessary. Instructions related to GSA modifications are included in the SGMA Portal. Once GSA modifications have been made or new shapefiles and maps have been uploaded, please re-submit your notice so DWR staff can review the changes and post accordingly. A GSA may need to populate all required fields in the online system before the notice can be re-submitted as complete.
3. If a GSA needs to modify its boundaries to align with new 2018 basin boundaries, then a new hard-copy map showing service area(s) and modified GSA boundaries should be uploaded, as well as new matching GIS shapefiles. The Department also recommends uploading an explanation of the changes made to the posted notice and updating any relevant documentation, such as resolutions and legal agreements, if necessary.
4. Multiple GSAs may need to modify their posted notices accordingly to allow for a boundary change to occur if exclusive GSA boundaries are being affected and management intent is being altered. Coordination among GSAs is encouraged.
5. If multiple single-agency notifications are being consolidated into a coordinated multi-agency notification using a legal agreement (such as a JPA or MOA), then multiple notices will need to be withdrawn or modified to allow for the posting of the coordinated GSA notice.
 - a. The local agencies involved will need to determine if the legal agreement that coordinates basin governance involves a material change, especially if exclusive GSA areas are changing or new local agencies that have not yet gone through the GSA formation process are becoming signatories to the legal agreement.
 - b. All information associated with the exclusive GSA consolidation needs to be reflected on the GSA formation notification and the Department must determine if the information is complete before re-posting.
6. If one exclusive GSA coordinates with another exclusive GSA to “swap GSA areas” due to land annexation or basin boundary changes, then each GSA will need to make notification changes accordingly.
7. Water Code § 10726.8(b) should be considered when making GSA boundary changes, as a local agency cannot impose fees or regulatory requirements on activities outside its local agency boundaries.
8. Withdrawing from managing a basin: Water Code § 10723.8(e) says, “A GSA may withdraw from managing a basin by notifying the department in writing of its intent to withdraw.” A GSA may withdraw a posted notice by using the functions of the SGMA Portal, sending an email to the Department, or providing a hard-copy letter indicating withdraw intent.
9. The Department’s role in GSA formation is limited to posting complete notices within 15 days of receipt. It is a GSA’s responsibility to maintain a complete notice on the SGMA Portal. When making modifications to a posted notice the Department encourages coordination and transparency.
10. Local agencies and GSAs should consider the regulatory requirements of GSP Regulation § 354.6, Agency Information, which requires a GSA to demonstrate legal authority to implement a GSP when defining GSA boundaries.
11. A GSA modification may also require updating a GSP Initial Notification: <https://sgma.water.ca.gov/portal/#gsp>.