



APHL Position Statement

EPA Designation of Safe Drinking Water Act Principal State Laboratories

A. Statement of Position

The Association of Public Health Laboratories (APHL) encourages states to continue to designate state laboratories as Principal State Laboratories under the Safe Drinking Water Act. Government laboratories serve unique roles within the regulatory framework that should not be transferred to the private sector for reasons outlined below.

B. Implementation

1. APHL will develop a memorandum to submit to state drinking water administrators, state legislators, the EPA Administrator, EPA Regions and applicable professional organizations such as ASDWA and ASTHO, recommending maintaining public laboratories as Principal State Laboratories.
2. APHL may act as a convener with other federal agencies who may also weigh in on the national usefulness of equipped Principal State Laboratories in all hazard responses.

C. Background/Data Supporting Position

Due to financial and budgetary constraints, states are increasingly considering privatization of traditional government services.

The role of government is to regulate private interests for the public good (e.g. to protect public health, welfare...and promote the common good).¹ In fact, the definition of public health law is the

legal powers and duties of the state to assure the conditions for people to be healthy.² Consequently, government laboratories are uniquely positioned to work in the best interest of the public.

Government laboratories answer to the public, non-governmental laboratories answer to owners or shareholders. Governmental laboratories operate in the best interests of public health and remain uncompromised by business priorities. Drinking water test results determine compliance with laws and regulations and help jurisdictions respond to emergencies, both of which are at the core of government functions. Government's duty to protect public health cannot be negotiated or contracted away.

In addition to ensuring laboratories are acting for the public good, Principal State Laboratories (PSLs) serve a necessary function under the SDWA. States should recognize that one of the mandatory primacy conditions of the EPA Safe Drinking Water Act requires states to maintain a PSL.³ Since the inception of

40 CFR 142.10, states have generally designated a state laboratory as a PSL. This relates to the **high level of trust associated with public laboratories**, the high level of quality assurance in their role as a reference or confirmatory laboratory, recognition that public laboratories contain unique expertise on a variety of issues including emerging contaminants, and their traditional role in

environmental public health emergencies.

Most states name a PSL to assure that the state will retain SDWA enforcement primacy. In addition to ensuring state rather than federal oversight, primacy provides eligibility for certain federal funding opportunities including grants and loans worth several million dollars such as the Drinking Water Revolving Fund, the Public Water System Supervision Grants, and State Underground Water Source Protection Grants. Using the state facility as the PSL creates an important fiscal advantage in that **expenses to maintain the public laboratory can serve as a state match for these federal grants.** Moreover, state public water system analytical costs will be subject to state regulatory oversight rather than subject to the budget priorities of a private entity.

Recent communications from EPA to state administrators include options for designating a Principal State Laboratory.⁴ These options include the state laboratory, arrangements with another state, commercial laboratories (within or outside of the state), or a combination of the above. While these options are not contrary to federal regulations, they are contrary to historical interpretation of the role of government in protecting the public. APHL believes **it is important that state laboratories continue to serve as the state reference body**—a role that may be jeopardized if a state PSL’s responsibilities are reduced.

In addition, **public laboratories provide the backbone for national emergency preparedness**, generating results that answer questions and form the basis for taking action. Public laboratories remain available 24/7/365 to respond to emergency testing needs, in many instances without reimbursement of incurred costs. Conversely, private laboratories are not typically available 24-hours a day and require fees for any service provided, including those done on an

emergency basis. Most state laboratories are members of EPA’s Environmental Response Laboratory Network, FDA’s Food Emergency Response Network and CDC’s Laboratory Response Network. These networks facilitate coordination, backup, support and surge among states during emergencies. Finally, state laboratories are usually involved in the initial stages of an emergency to identify contaminants of concern because of their clear mission to protect the public, advanced capabilities, and close relationship with other government first-responders. After the initial phase, some functions may be transferred to the private sector for routine and ongoing efforts. At that point, public laboratories are well-placed to provide oversight and reference testing to ensure quality control and accountability. This quality oversight remains an important governmental function related to its role as a protector of the public.

The work of public laboratories often remains invisible, “yet everyone in [the] state depends on” it.⁵ Shifting away from the traditional role of having a state PSL could reduce or eliminate important services, such as:

- Working with state environmental and public health programs to identify contamination and pollution concerns.
- The responsibility to provide unbiased and impartial data in enforcement and legal proceedings.
- State enforcement agencies have relationships with state laboratories, which helps ensure evidence chain of custody, resources and witness availability, and other necessary enforcement tools.
- Coordinating with federal agencies such as EPA and CDC to develop novel methods or perform testing for new contaminants that may later be transferred to other laboratories for routine testing.

- Maintaining unique expertise and resources to provide testing and consultation on emerging environmental contaminants that may not be currently regulated or monitored.
- An ability to access the resources needed for specialized testing programs such as biomonitoring, toxicology and risk assessment.

APHL believes that public laboratories have a clear, unique role in assuring defensible data of known quality and supporting compliance with the Safe Drinking Water Act, and **urges States to utilize a public laboratory as the Principal State Laboratory under the SDWA.**

D. References

1. Bathija, B. and Reeverts, C. U.S. EPA Guidance from Hotline Compendium, WSG H33, State Program for Laboratory Certification (December 1990). Accessed 03/16/2010. http://www.epa.gov/safewater/wsg/wsg_H33.pdf
2. EPA Office of Ground Water and Drinking Water -Water Security Division. *Water Laboratory Alliance (WLA)*. <http://water.epa.gov/infrastructure/watersecurity/wla/index.cfm>.
3. EPA Office of Water *Manual for the Certification of Laboratories Analyzing Drinking Water*. Criteria and Procedures Quality Assurance Fifth Edition EPA 814-R-05-004. http://www.epa.gov/ogwdw/methods/pdfs/manual_labcertification.pdf
4. 40 CFR PART 142--NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION, http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=39f1366979712eca0ac4e22f5f52b290&tpl=/ecfrbrowse/Title40/40cfr142_main_02.tpl (accessed 5/10/2012).

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