

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
SEPTEMBER 7, 2023**

ITEM 10

SUBJECT

ADMINISTRATIVE PROCEDURE ACT PUBLIC HEARING TO RECEIVE PUBLIC COMMENTS ON THE PROPOSED REGULATIONS FOR DIRECT POTABLE REUSE.

DISCUSSION

Pursuant to Water Code sections 13521 and 13561.2, and Health and Safety Code sections 116271, 116350 and 116375, the State Water Resources Control Board (State Water Board) is proposing to adopt regulations establishing uniform water recycling criteria for direct potable reuse (DPR), the planned use of municipal wastewater to produce water that is placed into the water distribution system of a public water system or into a water supply immediately upstream of a public water system's water treatment plant, such that the adherence to the criteria would result in public health being adequately protected.

Water Code section 13561.2 mandates that the State Water Board adopt uniform water recycling criteria for DPR by December 31, 2023, contingent upon an expert panel having made a finding that the criteria would adequately protect public health. In addition to the review by the expert panel, pursuant to Health and Safety Code section 57004, the scientific basis and scientific portions of the proposed DPR regulations are mandated to be reviewed by independent external peer reviewers.

On July 21, 2023, the Notice of Proposed Rulemaking for the DPR regulations was published in the California Regulatory Notice Register (July 21, 2023 – No. 29-Z) pursuant to the requirements of the California Administrative Procedure Act (APA). Publication of the Notice of Proposed Rulemaking begins a mandatory comment period of no less than 45 days. During the public comment period, which the State Water Board has set for 49 days (ending at noon on September 8, 2023), the public may submit comments on the proposed regulations. The Notice of Proposed Rulemaking, as well as the proposed regulation text and the Initial Statement of Reasons, have been posted to the State Water Board's Web site at:

https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/dpr-regs.html

The proposed direct potable reuse regulations do not require any public water system or municipal wastewater agency to participate or engage in direct potable reuse. The proposed regulations include requirements – such as public notices and public hearings - that ensure that the public has opportunities to review information and provide comments to a public water system on a specific direct potable reuse project prior to implementation of a project.

HEARING OVERVIEW

The State Water Board is seeking written and oral public comments on the proposed regulations for direct potable reuse, under the rulemaking provisions of the APA. The State Water Board will not take formal action during this public hearing.

The purpose of this hearing is to receive oral and/or written comments from the public on the proposed regulations, in accordance with the APA. The hearing will include a brief presentation by staff that includes background information and an overview of the proposed regulations. The staff presentation will be followed by time set aside to allow the public an opportunity to provide oral or written comments on the proposed regulations.

Although a quorum of Board members may be present, the Board will not take formal action at the hearing. Board members and State Water Board staff may ask commentators clarifying questions. Public comments will be recorded and transcribed.

Following the conclusion of the public comment period on September 8, 2023, the State Water Board will review each comment received during the comment period, including at the public hearing. The State Water Board staff will then determine if any modifications should be made to the proposed regulations, which may then require an additional public comment period of no less than 15 days. Any additional comment period will be noticed. The State Water Board staff will then address each comment in a Final Statement of Reasons and will schedule a hearing at which the State Water Board will be asked to adopt the regulations. The adopted regulations will then be submitted to the Office of Administrative Law for review, and, if OAL approves the regulations, publication in the California Code of Regulations.

POLICY ISSUE

None at this time – APA hearing only.

FISCAL IMPACT

None – APA hearing only.

REGIONAL BOARD IMPACT

None at this time – APA hearing only.

STAFF RECOMMENDATION

None at this time – APA hearing only.