



State Water Resources Control Board

NOTICE OF PROPOSED RULEMAKING

TITLE 22. Social Security DIVISION 4. Environmental Health CHAPTER 17. Surface Water Treatment

SUBJECT: DIRECT POTABLE REUSE REGULATIONS (SBDDW-23-001)

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Board) proposes to amend or adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed regulatory action.

SUMMARY OF PROPOSED REGULATORY ACTION

The State Board proposes to amend California Code of Regulations, Title 22, Division 4, Chapter 17, for the purpose of establishing regulations governing 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, a process known as direct potable reuse (DPR). The adoption of "Direct Potable Reuse" regulations will:

- Adopt Article 10, Chapter 17, Division 4, to establish regulations that apply to public water systems (PWS) that may choose to engage in DPR.

PUBLIC HEARING

(Gov. Code, § 11346.5(a)(1))

The State Board will conduct an Administrative Procedure Act (APA) public hearing regarding the subject proposed regulations at the time and place noted below. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice.

DATE: September 7, 2023

TIME: 9:30 a.m.

PLACE: California Environmental Protection Agency
State Water Resources Control Board
Coastal Hearing Room
1001 I Street, Second Floor
Sacramento, CA 95814

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

The public hearing will begin with a staff presentation summarizing the proposed regulations, followed by an opportunity for public comment. During the comment period, the public will be allowed three minutes to provide oral comments, unless additional time is approved.

If you wish to view or listen to the workshop only, a webcast will be available at: <https://video.calepa.ca.gov/>.

If you wish to make oral comments during the public hearing, additional information about participating telephonically or via the remote meeting solution will be available at least 10 days before the meeting at:

https://www.waterboards.ca.gov/board_info/remote_meeting/.

While a quorum of the State Board may be present, this hearing is for the public to provide comments in accordance with the APA. The State Board will not take formal action. Final regulations are expected to be adopted by the State Board later this year, after consideration of all written and oral comments.

Additional information regarding State Board meetings, hearings, and workshops is available on the State Board's Internet web page at:

https://www.waterboards.ca.gov/board_info/calendar/.

Special Accommodation Request: Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5611 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si Necesita Arreglos Especiales: Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma;
- Una acomodación razonable relacionada con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 341-5611 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS
(Gov. Code, § 11346.5(a)(15))

Any interested person, or their representative, may submit written comments relevant to the proposed regulatory action to the Clerk to the Board. Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Clerk to the Board by **12:00 noon on Friday, September 8, 2023**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written comments may be submitted as follows:

Electronic mail (email): commentletters@waterboards.ca.gov

FAX: (916) 341-5620

Postal Mail: Ms. Courtney Tyler, Clerk to the Board
State Water Resources Control Board
P.O. Box 997377, MS 7400
Sacramento, CA 95899-7377

Hand Delivery: Ms. Courtney Tyler, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor, Sacramento, CA 95814

Persons delivering comments must check in with lobby security and have them contact Ms. Courtney Tyler at (916) 341-5611.

The State Board requests but does not require that all email, fax, or mail transmission of comments, particularly those with attachments, contain the regulation package identifier **“Comments – SBDDW-23-001: Proposed DPR Regulations”** in the subject line to facilitate timely identification and review of the comment.

The State Board requests but does not require that written comments sent by mail or hand-delivered be submitted in triplicate.

All comments, including email or fax transmissions, should include the author’s name, email address, and U.S. Postal Service mailing address in order for the State Board to provide any notices that may be required in future.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Due to the limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by the State Board. Therefore, emails larger than 15 MB should be submitted under separate emails or another form of delivery should be used.

The State Board requests but does not require that if reports or articles in excess of 25 pages are submitted in conjunction with the comments, that the commentator provide a summary of the report or article and describe the reason for which the report or article is being submitted or is relevant to the proposed regulation.

AUTHORITY AND REFERENCE

(Gov. Code, § 11345.5(a)(2); CCR Title 1, Div 1, Ch. 1, § 14)

Pursuant to Water Code sections 13521 and 13561.2, and Health and Safety Code sections 116271, 116350 and 116375, the State Board is authorized to adopt the subject regulations. This action is proposed to implement, interpret, and make specific one or more of the following: Sections 13520, 13522, 13522.5, 13524, 13560, 13561, 13561.2, 13563, 13566 and 13567, Water Code; and Sections 106875, 106876, 106885, 116270, 116275, 116350, 116360, 116375, 116385, 116390, 116400, 116450, 116451, 116455, 116470, 116525, 116527, 116530, 116535, 116540, 116545, 116550, 116551, 116555, 116655, 116725, 116730, 116735 and 116750, Health and Safety Code.

INFORMATIVE DIGEST

(Gov. Code, § 11346.5(a)(3))

Existing Laws and Regulations (Gov. Code, § 11346.5(a)(3)(A)): All public water systems in California are subject to regulations adopted by the U.S. EPA under the U.S. Safe Drinking Water Act (SDWA) of 1974, as amended (42 U.S.C. §§ 300f et seq.), as well as by the State Board under the California Safe Drinking Water Act (California SDWA) (Health & Safety Code, div. 104, pt. 12, ch. 4, §§ 116270 et seq.). It is the objective of the California SDWA for public water systems to deliver drinking water to consumers that is, at all times, pure, wholesome, and potable. The ability to meet this objective is a reflection of the water quality and quantity of a public water system's source of supply, the public water system's ability to treat the source of supply (if necessary), and its ability to deliver drinking water, all in a manner that ensures compliance with all applicable drinking water standards.

In September 2010, Senate Bill 918 (SB 918) was signed by the Governor and filed with the Secretary of State, establishing Chapter 7.3 (“Direct and Indirect Potable Reuse”), under Division 7 of the Water Code. Among other things, SB 918 provided a definition of “direct potable reuse”: the planned introduction of recycled water directly into a public water system or into a raw water supply immediately upstream of a water treatment plant. SB 918 also required that the Department of Public Health (transferred to the State Board in 2014):

- Investigate and report to the Legislature on the feasibility of developing uniform water recycling criteria for direct potable reuse, considering among other things the availability and reliability of treatment technologies necessary to protect public health, multiple barriers and sequential treatment processes, available information on health effects, mechanisms that should be employed to protect public health if problems are found in the recycled water served to the public as a potable water supply including failure of treatment, and monitoring needed to ensure protection of public health (Water Code, § 13563).
- Consider the recommendations from an expert panel appointed by the State Board comprised of a toxicologist, an engineer licensed in the state of California with at least three years’ experience in wastewater treatment, an engineer licensed in the state with at least three years’ experience in treatment of drinking water supplies and knowledge of drinking water standards, an epidemiologist, a microbiologist, and a chemist. (Water Code, § 13565).
- Consider the recommendations from an advisory group appointed by the State Board consisting of no fewer than nine representatives of water and wastewater agencies, local public health officers, environmental organizations, environmental justice organizations, public health nongovernmental organizations, the department, the state board, the United States Environmental Protection Agency, ratepayer or taxpayer advocate organizations, and the business community (Water Code, § 13565).
- Consider water quality and health risk assessments associated with existing potable water supplies subject to discharges from municipal wastewater, stormwater, and agricultural runoff, research, regulations, and guidelines from the State Board, other states, the federal government, or other countries (Water Code, § 13566).

In October 2017, Assembly Bill 574 (AB 574) was signed by the Governor and filed with the Secretary of State, amending Chapter 7.3 (renamed to “Potable Reuse”) under Division 7 of the Water Code. Specific to the proposed DPR regulations and among other things, AB 574:

- expanded on the definition of direct potable reuse to include and add definitions for two forms of direct potable reuse – raw water augmentation and treated water augmentation, and

- authorized and mandated the State Board to develop and adopt uniform water recycling criteria for direct potable reuse through raw water augmentation, as defined by AB 574, by December 31, 2023, if an expert panel, convened and administered by the State Board pursuant to the bill's statutory requirements, found that the State Board's criteria would adequately protect public health (Water Code, § 13561.2).

AB 574 additionally recommended that the State Board establish a framework for the regulation of potable reuse projects on or before June 1, 2018, that should among other things include the following:

- consideration of recommendations provided in the State Board's "Investigation on the Feasibility of Developing Uniform Water Recycling Criteria for Direct Potable Reuse,"
- a schedule for completing the recommended research described in "Investigation on the Feasibility of Developing Uniform Water Recycling Criteria for Direct Potable Reuse," and
- a regulatory framework for potable reuse projects that will be protective of public health (Water Code, § 13560.5).

Furthermore, AB 574 required the State Board to use information from the recommended research in its development of DPR criteria and provided an 18-month extension of the deadline to adopt the uniform water recycling criteria, along with other contingencies to extend the deadline further to consult with the expert panel on the need for additional research if the recommended research is insufficient. (Water Code, § 13561.2(a)).

Comparable Federal Statute and Regulations (Gov. Code, § 11346.5(a)(3)(B)): There are no federal regulations or statutes that address the specific subject addressed by the proposed regulations.

Policy Statement Overview (Gov. Code § 11346.5(a)(3)(C)): The State Board proposes to adopt regulations governing the planned use of municipal wastewater to produce water that is placed into a water distribution system of a public water system or into a water supply immediately upstream of public water system's water treatment plant (known as raw water augmentation); a process known as direct potable reuse (DPR). Existing law requires the State Board to adopt uniform water recycling criteria for the raw water augmentation form of DPR by December 31, 2023, subject to the condition that a statutorily-mandated expert panel has made a finding that such criteria would adequately protect public health.

Problem Statement: The objective of the California Safe Drinking Water Act is to ensure that public water systems reliably deliver water for human consumption that is, at all times, pure, wholesome, and potable. (Health and Safety Code, § 116270) A number of

challenges make it difficult to meet this objective. These challenges include the limited availability of new sources of drinking water from surface waters, overuse of groundwater sources and subsequent reduction in water available for use as drinking water, the projected effects of climate change, including the potential for more frequent severe droughts, along with continued population growth. To address these challenges while meeting the central mandate of the SDWA, the Governor's California Action Plan outlines a variety of actions the State will take to better manage water resources, including increased reuse of treated wastewater.

Objectives (Goals): The objective of this proposed regulatory action is to:

Through adoption of regulations, establish uniform water recycling criteria (i.e., regulations) governing the planned use of municipal wastewater to produce water that is placed into a public water system or into a water supply immediately upstream of public water system's water treatment plant, such that the adherence to the criteria for the production of drinking water would result in adequate protection of public health.

Benefits: The anticipated benefits, including any nonmonetary benefit to the protection of public health and safety of California residents, worker safety, and the state's environment, from this proposed regulatory action are:

- Providing a safe drinking water or drinking water supply when DPR is used, by prescribing specific, uniform requirements regarding the treatment and distribution of such drinking water.
- Providing public water systems, and accordingly, Californians, with a relatively reliable, drought-proof, and sustainable option for drinking water or a drinking water supply for a water treatment plant, which is particularly important in light of climate change and expected related challenges to future water supplies.
- Enhancing the treatment of wastewater and consequent decreases in the discharge of wastewater into the environment.
- Decreasing emissions and potential energy savings by allowing for water to be used locally, thus decreasing the need for water imports from distant sources.
- Providing a means for increasing the beneficial use of recycled water in California, which may reduce use of other sources of drinking water to the benefit of other users of such water sources, including benefits to the environment through potentially greater in-stream flows.
- Although the absence of DPR regulations would not preclude the permitting of DPR projects under the SDWA, the adoption of uniform criteria in the form of the proposed DPR regulations is expected to streamline the permitting process for DPR projects.

Evaluation as to Whether the Proposed Regulations are Inconsistent or Incompatible with Existing State Regulations (Gov. Code, § 11346.5(a)(3)(D)):

The State Board evaluated whether the proposed regulations are inconsistent or incompatible with existing California state regulations. This evaluation included a review of California's existing drinking water regulations and regulations potentially related to DPR, including the State Board's existing regulations related to indirect potable reuse (IPR). It was determined that no other state regulation addressed the same subject matter and that this proposal was not inconsistent or incompatible with other state regulations.

California's existing drinking water regulations include requirements that address how surface water can be made safe for drinking. For those portions of the regulations that are comparable, the proposed DPR regulations are substantially consistent with the existing surface water treatment regulations. California's existing regulations for IPR include the planned use of recycled water for the purpose of replenishing groundwater basins or for augmenting surface water reservoirs that are used as a source of domestic drinking water supply. For those portions of the regulations that are comparable, the proposed DPR regulations are substantially consistent with the existing regulations for IPR. Therefore, the State Board has determined that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

SUMMARY OF PROPOSAL

The proposed DPR regulations would establish *minimum* uniform water recycling criteria for the purpose of adequately protecting public health with respect to the planned use of municipal wastewater to produce water that is placed into a water distribution system of a public water system or into a water supply immediately upstream of a public water system's water treatment plant. The proposed regulations would not preclude the Regional Water Quality Control Boards (Regional Boards), via their authorities and responsibilities, from imposing additional requirements when issuing a waste discharge and/or water recycling permit to water recycling agencies that may choose to participate in DPR, including having to meet National Pollutant Discharge Elimination System (NPDES) requirements established by the U.S. Environmental Protection Agency (U.S. EPA).

In accordance with the aforementioned mandates and pursuant to Water Code sections 13521 and 13561.2, and Health and Safety Code sections 116271, 116350 and 116375, the State Board proposes the following changes to Title 22:

- Adopt Article 10, Chapter 17, Division 4, establishing criteria applying to a PWS choosing to be involved in the planned use of municipal wastewater to produce water that is placed into a water distribution system of a public water system or into a water supply immediately upstream of a public water system's water treatment plant, which includes the adoption of sections summarized as follows:
 - Section 64669.00 (Application), establishing the general applicability for the requirements of the Article;
 - Section 64669.05 (Definitions), establishing definitions related to DPR;

- Section 64669.10 (General Requirements), establishing general requirements, including overarching requirements and those criteria that do not fall within the more specific subject matter in subsequent sections;
- Section 64669.15 (Permit), establishing the requirement for a direct potable reuse responsible agency, and the permitting requirements for the agency as well as other public water systems that receive water from a DPR project;
- Section 64669.20 (Joint Plan), establishing the requirement for a Joint Plan that clarifies the roles and responsibilities of all partner agencies in a DPR project;
- Section 64669.25 (Public Meeting), establishing the minimum requirements related to holding a public meeting for a DPR project;
- Section 64669.30 (Technical, Managerial, and Financial Capacity), establishing minimum requirements for technical, managerial, and financial capacity necessary for a DPR project;
- Section 64669.35 (Operator Certification), establishing minimum requirements for operator certification;
- Section 64669.40 (Wastewater Source Control), establishing minimum requirements and criteria related to the origin and control of raw wastewater to be ultimately treated and used for DPR projects;
- Section 64669.45 (Pathogen Control), establishing minimum requirements for the control of pathogenic microorganisms;
- Section 64669.50 (Chemical Control), setting forth minimum treatment criteria for the control of chemical risks;
- Section 64669.55 (Water Safety Plan), establishing minimum requirements for project-specific risk assessment for water safety;
- Section 64669.60 (Regulated Contaminants and Physical Characteristics Control and Monitoring), establishing minimum requirements for the control of regulated contaminants and physical water quality characteristics that are commonly regulated in drinking water;
- Section 64669.65 (Additional Chemical Monitoring), establishing requirements for the monitoring of chemicals and contaminants beyond regulated contaminants and pathogenic microorganisms;
- Section 64669.70 (Laboratory Analysis), establishing minimum requirements related to the analyses of chemicals and contaminants for a direct potable reuse project;
- Section 64669.75 (Engineering Report), establishing minimum requirements for the information contained in an engineering report;
- Section 64669.80 (Operations Plan), establishing minimum requirements for an operations plan for a direct potable reuse project;
- Section 64669.85 (Pathogen and Chemical Control Point Monitoring and Response), establishing requirements for pathogen and chemical control points to address treatment failure conditions and control system requirements;
- Section 64669.90 (Monitoring Plan), establishing requirements to develop a monitoring plan;

- Section 64669.95 (Compliance Reporting), establishing requirements to report compliance data and information for DPR projects;
- Section 64669.100 (Annual Report), establishing requirements to provide an annual summary for the public record of the status of a DPR project and its ability to comply with regulations;
- Section 64669.105 (Cross-Connection Control), establishing requirements to assess DPR projects to reduce contamination from cross-connections;
- Section 64669.110 (Corrosion Control and Stabilization), establishing requirements for corrosion control and stabilization of the water produced by DPR projects;
- Section 64669.120 (Independent Advisory Panel), establishing requirements related to the review of DPR projects by independent advisory panels;
- Section 64669.125 (Public Notification), establishing requirements for public notification for specific conditions unique to DPR projects;
- Section 64669.130 (Consumer Confidence Report), establishing requirements for information unique to DPR projects to be included in consumer confidence reports.

The net effect of the proposed regulations would be to establish specific regulatory criteria for general application by public water systems choosing to engage in the planned use of municipal wastewater to produce water that is placed into a water distribution system of a public water system or into a water supply immediately upstream of a public water system's water treatment plant.

The proposed regulations would not affect California's SDWA primacy delegation granted by U.S. EPA because no federal regulations exist that specifically address DPR. The net effect of these amendments is that the proposed state regulation would not be less stringent than any existing federal regulation.

FORMS OR DOCUMENTS INCORPORATED BY REFERENCE

(CCR Title 1, Div. 1, Ch. 1, § 20(c)(3))

The following documents are incorporated by reference in the proposed regulations, as it would be too cumbersome, unduly expensive, and impractical to publish these documents into regulation:

- D4194-23 Standard Test Methods for Operating Characteristics of Reverse Osmosis and Nanofiltration Devices (2023), available at: <https://www.astm.org/d4194-23.html>
- Protocol for the Evaluation of Alternate Test Procedures for Organic and Inorganic Analytes in Drinking Water (EPA 815-R-15-007, February 2015), available at: <http://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=P100MERX.txt>

- Protocol for the Evaluation of Alternate Test Procedures for Analyzing Radioactive Contaminants in Drinking Water (EPA 815-R-15-008, February 2015), available at: <http://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100MESN.txt>

MANDATED BY FEDERAL LAW OR REGULATIONS

(Gov. Code, §§ 11346.2(c) and 11346.9)

Adoption of the proposed regulations is not mandated by federal laws or regulations.

OTHER STATUTORY REQUIREMENTS

(Gov. Code, § 11346.5(a)(4))

California Environmental Quality Act:

The California Environmental Quality Act (CEQA) applies to projects which may either cause a direct physical change in the environment or a reasonably indirect physical change in the environment. (Pub. Res. Code, § 21084). The proposed regulations do not require the development and implementation of any DPR projects, nor do these regulations create any new entitlement. Rather, the proposed regulations streamline and standardize the existing process for the approval and permitting of DPR projects. Because it is not reasonably foreseeable that the adoption of the regulations will result in the approval and implementation of any additional DPR projects, the adoption of these regulations is not considered a project under CEQA.

In addition, the State Board intends to make a finding that adoption of the proposed DPR regulations represents action taken by a regulatory agency pursuant to its general and specific statutory authority for the maintenance, enhancement, and protection of the environment and natural resources, and that adoption of the proposed DPR regulations satisfies the requirements of Title 14 of the California Code of Regulations, sections 15307 and 15308, and is therefore a Class 7 and 8 categorical exempt project. As set forth above, the proposed regulations maintain, enhance, and protect the natural resources and environment of the state by facilitating the increased use of wastewater, thereby increasing the overall supply of potable water, facilitating the increased treatment of wastewater, facilitating the treatment of drinking water, facilitating the decrease of air emissions and energy usage, and decreasing the likelihood of disturbances to land and other natural resources. The State Board intends to further find that there are no facts on the record to indicate or suggest that the proposed DPR regulations fall within any of the enumerated exceptions for the appropriate use of a categorical exemption as set forth in Title 14 CCR, section 15300.2. The State Board intends to find, therefore, that pursuant to Title 14 CCR, section 15300, adoption of the proposed DPR regulations is categorically exempt from CEQA requirements for the preparation of environmental documents.

Scientific Peer Review (Health and Safety Code, § 57004(b)):

Health and Safety Code section 57004(b) requires that the scientific portions of any regulation proposed by the California Environmental Protection Agency (Cal/EPA), or any board, department or office within Cal/EPA, be submitted to an external scientific peer review entity for evaluation of their scientific basis. “Scientific basis” and “scientific portions” mean “those foundations of a rule that are premised upon, or derived from empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment” (Health & Safety Code, § 57004(a)(2)). CalEPA’s Unified California Environmental Protection Agency Policy and Guiding Principles for External Scientific Peer Review, March 13, 1998 (CalEPA Guiding Principles) recognizes that external scientific peer review processes are not warranted where there are no underlying scientific bases at issue, or where the underlying scientific basis has already undergone review.

Coordination and oversight of the scientific peer review was conducted by California’s Environmental Protection Agency’s External Scientific Peer Review Program, in the State Board Office of Research, Planning, and Performance. The scientific peer review was completed on June 21, 2021, as required by law.

Safe, Clean, Affordable Water (Water Code, § 106.3):

Water Code section 106.3(b) requires the State Board to consider the state’s policy that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.” In establishing and adopting the proposed regulations, the State Board considered the statewide policy set forth in section 106.3 of the Water Code and determined the proposed regulations will further the stated policy. The proposed regulations will result in a continued protection of the health and welfare of California residents, by establishing health protective uniform water recycling criteria for the planned use of municipal wastewater as a new source of reliable drinking water.

LOCAL MANDATE

(Gov. Code, § 11346.5(a)(5))

The State Board has determined that the regulations will not impose a mandate on local agencies or school districts that require state reimbursement.

FISCAL IMPACT

(Gov. Code, § 11346.5(a)(6))

Identified fiscal impact estimates, if any, are prepared in accordance with Department of Finance instructions (SAM 6601-6616).

Estimated Fiscal Impact on Local Agency or School District: None.

Estimated Fiscal Impact on State Government: None.

Other Non-discretionary Cost or Savings Imposed on Local Agencies: None.

Estimated Fiscal Impact on Federal Funding of State Programs: None.

Cost to Any Local Agency or School District which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None.

HOUSING COSTS

(Gov. Code, § 11346.5(a)(12))

The State Board has determined that the regulations will have no impact on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES IN CALIFORNIA

(Gov. Code, § 11346.3(a); § 11346.5(a)(7); § 11346.5(a)(8))

The State Board has determined that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

(Gov. Code, § 11346.5(a)(10))

The State Board estimates that the economic impact of this regulation (which includes the fiscal impact) is below \$10 million and is a non-major regulation.

The proposed regulations do not impose any additional requirements on members of the regulated entities. The proposed regulations serve to carry out the statutory requirement to develop uniform water recycling criteria for direct potable reuse. Adoption of the proposed regulations would further ensure the protection of the health and welfare of California residents by providing minimum uniform criteria for ensuring protection of public health, which will serve to streamline the existing domestic water supply permitting process for entities choosing to engage in direct potable reuse.

Adoption of the proposed regulations will not: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; 3) affect the expansion of businesses currently doing business in California; or 4) affect the health and welfare of California residents, worker safety, or the environment.

STATEMENT OF THE RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA)

(Gov. Code, § 11346.5(a)(10))

Not applicable. The State Board has determined that the proposed regulations are not a major regulation.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

(Gov. Code, § 11346.5(a)(9))

The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

BUSINESS REPORT

(Gov. Code, § 11346.5(a)(11); § 11346.3(d))

Government Code subsection 11346.3(d) requires that any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for health, safety, or welfare of the people of the state that the regulation apply to businesses. The State Board has determined that the proposed regulations would not require reports from businesses to the extent that PWS are not considered businesses pursuant to Government Code paragraph 11342.610(b)(8). To the extent PWS may be considered businesses, reporting required by the proposed regulations is necessary for health, safety, or welfare of the people of the state.

EFFECT ON SMALL BUSINESSES

(1 CCR, § 4(a) and (b))

The State Board has determined that the proposed regulations would not affect small business because Government Code chapter 3.5, article 2, section 11342.610(b)(8) excludes utilities from the definition of a small business, and the proposed regulations thus do not apply to small businesses.

CONSIDERATION OF ALTERNATIVES

(Gov. Code, § 11346.5(a)(13))

The State Board must determine that no reasonable alternative considered or otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to the regulated water systems and affected private persons, or would be more cost-effective to the regulated water systems and affected private persons, yet equally effective in implementing statutory requirements or other provisions of law, than the proposed action.

The State Board invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period, as identified in this notice.

STATE BOARD CONTACT PERSONS

(Gov. Code, § 11346.5(a)(14))

Requests for copies of the proposed regulatory text, the initial statement of reasons, subsequent modifications of the proposed regulatory text, if any, or other inquiries concerning the proposed action may be directed to:

Jing Chao, P.E.
Senior Sanitary Engineer
State Water Resources Control Board, Division of Drinking Water
2375 Northside Drive, Suite 100
San Diego, CA 92108-2700
Telephone: (619) 525-4834
Electronic mail address: jchao@waterboards.ca.gov

In the event Jing Chao is not available to respond to requests or inquiries, please contact:

Randy Barnard, P.E.
Supervising Water Resource Control Engineer
State Water Resources Control Board, Division of Drinking Water
Telephone: (619) 525-4022
Electronic mail: randy.barnard@waterboards.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

(Gov. Code, § 11346.5(a)(16))

The State Board has prepared the proposed regulation text and an Initial Statement of Reasons for the proposed regulatory action. The Initial Statement of Reasons includes the specific purpose of the regulations proposed for adoption, and the rationale for the State Board's determination that adoption is reasonably necessary to carry out the purpose for which the regulations are proposed. All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for inspection and copying throughout the rulemaking process. To inspect or copy the rulemaking file at the State Board office, contact Jing Chao, identified above ("Contact Persons").

AVAILABILITY OF CHANGED OR MODIFIED TEXT

(Gov. Code, § 11346.5(a)(18))

After holding the hearing and considering relevant comments received in a timely manner, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are substantially related to the originally proposed text, the State Board will make the modified text – with changes clearly indicated – available to the public for at least 15 days before the State Board adopts the modified regulations. Any such modifications will also be posted on the State Board website. Please send requests for copies of any modified regulations to the attention of the contact persons provided above (“Contact Persons”). The State Board will accept written comments on the modified regulation for 15 days after the date on which they were made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

(Gov. Code, § 11346.5(a)(19))

Upon its completion, the Final Statement of Reasons will be available, and copies may be requested from the contact person(s) named in this notice (“Contact Persons”), or may be accessed on the website address provided below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

(Gov Code, § 11346.4(a)(6); § 11346.5(a)(20))

Materials regarding the action described in this notice (including this public notice, the regulation text, and the Initial Statement of Reasons) are available via the Internet and may be accessed directly from the State Board DPR regulation webpage at:

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

Date July 20, 2023



Courtney Tyler
Clerk to the Board