

**Final Statement of Reasons
Long Term 1 and 2 Enhanced Surface Water Treatment Rules
Title 22, California Code of Regulations**

UPDATE OF INITIAL STATEMENT OF REASONS

The information contained in the Initial Statement of Reasons (ISOR) remains unchanged, except for the following editorial change on page 18: Each of the eight references to federal regulatory sections was revised to more appropriately refer to “section(s)”, rather than “part(s)”.

All contents of the ISOR are hereby incorporated by reference into the Final Statement of Reasons.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF FEBRUARY 1, 2013, THROUGH MARCH 18, 2013

This regulation (DPH-09-014) was made available to the public on February 1, 2013, and ended at 5:00 pm on March 18, 2013. A request for a public hearing was not received and, therefore, a public hearing was not held. Comments were received from one commentator as a result of the written public comment proceedings.

Addendum 1 – Commentator Providing Written Comments

Commentator	Representation
Joyce Dillard	Self

Addendum 2 – Comments and Responses

Sections 63011, California Code of Regulations (CCR). The commentator expressed concern that the regulation doesn’t address the potential need for studies related to hydrology, earthquake faults, and sea-level related flooding.

Response: The regulation refers to “studies” and doesn’t preclude the types of studies referenced, if such studies were necessary for projects to bring public water systems into compliance with drinking water standards. Therefore, no change is necessary.

Section 64650, CCR. While referencing stormwater runoff, gray water, National Pollutant Discharge Elimination System (NPDES), and rain-harvesting concerns, the commentator states that they are not clear of what “approved surface water” consists. The commentator further questions how contaminant levels are being addressed for such types of projects and the jurisdiction for inspection. The commentator provides examples related to stormwater runoff.

Response: The commentator specifically refers to existing text that is being proposed to be amended by the addition of “Cryptosporidium”. As noted in section 64650, an “approved surface water” consists of that which meets the definition in section 64651.10, which is existing text that is not subject to comments because it is not included in the proposed regulatory action. In addition, section 64651.10 is applicable only to its use in Chapter 17 of Title 22, which pertains only to drinking water standards for surface water treatment plants owned and/or operated by public water systems. The types of projects and concerns mentioned by the commentator are not under the authority of the Department or its regulations and would be addressed by other statutory authorities and/or regulatory requirements. The comment is beyond the scope of the proposed regulation. No change is needed.

Section 64651.52, CCR. While questioning the jurisdictional controls for various agencies in Los Angeles, the commentator notes that “the examples given are not under the jurisdiction as a Public Works Treatment Plant.” The commentator states, “We need clarity on more than the definition, but on the responsible parties in relationship to the definition.”

Response: Section 64651.52 is applicable only to its use in Chapter 17 of Title 22, which pertains to drinking water standards for surface water treatment plants and is not intended for (or capable of) establishing jurisdictional authorities. Additionally, as noted in the Initial Statement of Reasons (ISOR), the proposed definition is consistent with the federal drinking water regulatory definition found in 40 CFR section 141.2. Based on the limited content of the comment as well as the commentator’s other comments, it appears the commentator is referring to an issue that is unrelated to the proposed regulation, with the comment being beyond the scope of the proposed regulation. No change is needed.

Section 64655, CCR. The commentator states, “‘Supplier’ needs to be spelled out and not assumed to be a water supplier as per our examples.”

Response: The word “supplier” is spelled out in the regulatory text and the Department is unaware of related examples being provided by the commentator. As used in the context of the proposed regulations, “supplier” is defined in existing section 64651.80, which pertains to the owner or operator of a public water system providing drinking water to the public. Section 64651.80 is existing text that is not proposed to be added or amended and is not subject to comments. No change is needed.

Section 64656.5, CCR. The commentator states, “In the examples given in the City of Los Angeles, there may not be a requirement for permits from your department.” The commentator then asks, “How will you address these underground storage tanks with suppliers that are not permitted?”

Response: Since the proposed regulation does not include “examples given in the City of Los Angeles”, the commentator is likely referring to the examples provided by under the commentator’s comment for section 64650 (e.g. stormwater-related, etc.).

As with section 64650, section 64656.5 is applicable only to its use in Chapter 17 of Title 22, which pertains only to drinking water standards for surface water treatment plants owned and/or operated by public water systems. The types of projects and concerns mentioned by the commentator are not under the authority of the Department or its regulations and would be addressed by other statutory authorities and/or regulatory requirements. The comment is beyond the scope of the proposed regulation. No change is needed.

Sections 64660(a) and 64662(a), CCR. While referring specifically to the language in these two subsections, the commentator asks the following questions: “Does your Department have the approval levels? If not, who does and how can the Public be protected? If no records are required to be kept because of a loophole, who is responsible for any liability or death incurred?”

Response: Subsection (a) of section 64660 is existing text that is not proposed to be amended and is not subject to comments. Similarly, subsection (a) of section 64662 is existing text that is not proposed to be amended (other than editorially). That said, in an effort to clarify the proposed regulatory action with respect to the commentator’s questions, the public’s drinking water is protected through the public water systems’ adherence to drinking water standards established by and under California’s Safe Drinking Water Act, as described more fully in the ISOR. Also, records are required to be kept, as described in section 64662. No change is needed.

Section 64666(a), CCR. While referring specifically to the language in subsection (a), the commentator states, “There is no system established here” and asks the following questions: “How does the Department of Recreation and Parks or the Bureau of Sanitation notify the park-goers-by a posted Notice in the Park or by and ad in the newspaper?”

Response: Subsection (a) of section 64666 is existing text that is not proposed to be amended (other than to correct references to sections). However, in an effort to clarify the proposed regulatory action with respect to the commentator’s questions, if the Department of Recreation and Parks or the Bureau of Sanitation owned and operated a public water system subject to section 64666, the “system” for notification is provided in the subsequent subsections of section 64666, which include reference to other sections of the regulations that include detailed requirements pertaining to the manner in which notification must be provided. No change is needed.

STATEMENTS OF DETERMINATION

Local Mandate Determination

The proposed regulations do not impose a mandate on local agencies or school districts.

Alternatives Considered

No alternatives considered by the Department would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective as and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Impact on Business

The Department has made a determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

ADDITIONAL PROGRAM STATEMENTS

45-Day Public Notice Mailing

The Department has complied with the provision of Government Code Section 11346.4(a)(1) through (4) regarding the mailing of notice of proposed action at least 45 days prior to public hearing or close of the public comment period. The date upon which the notice was mailed was January 31, 2013, and the date the notice was emailed was February 1, 2013.

California Conference of Local Health Officers Review

Pursuant to Health and Safety Code Section 131205, the Department provided a copy of the public notice document, including the text of the proposed regulation text and the Initial Statement of Reasons, to the California Conference of Local Health Officers for review and comment.

California Environmental Quality Act

Note that the Department finds that adoption of the subject regulations constitutes action by a regulatory agency, which action is expressly authorized by state statute for protection of the environment and does not involve the relaxation of any standard for protection of the environment; and is therefore categorically exempt from compliance with the California Environmental Quality Act (CEQA) as a Class 8 exemption pursuant to CEQA Guidelines, 14 CCR 15308. The Department further finds that the adoption of the subject regulations does not fall within any exception to categorically exempt projects described in Public Resources Code 21084.