

OFFICE OF ADMINISTRATIVE LAW

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DEBRA M. CORNEZ
Director

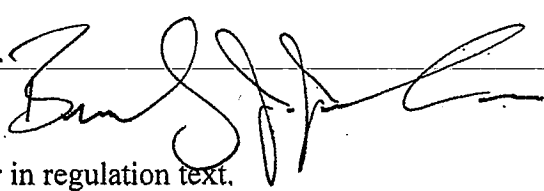
ENDORSED FILED
IN THE OFFICE OF

2014 JUN 23 PM 2:00



Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

TO: Secretary of State

FROM: Beverly Johnson, Deputy Director 

RE: OAL file no. 2014-0612-01E
Department of Public Health error in regulation text.

DATE: June 23, 2014

OAL file no. 2014-0612-01E
Department of Public Health
Date filed with the Secretary of State: 6-18-2014

The attached email message from Linda M. Cortez, Department of Public Health, explains that there are text errors in the regulation text for the above-referenced rulemaking. Ms. Cortez provides authorization to the Office of Administrative Law to designate June 18, 2014, as the effective date of the regulations where required in the regulation text. Specifically, the corrections are as follows:

1. Section 60320.100(a): Effective date of June 18, 2014, is to be inserted in four different places on pages 10 and 11 to replace the bracketed language "insert effective date".
2. Section 60320.108(e): Effective date of June 18, 2014, is to be inserted in one place on page 18 to replace the bracketed language "insert effective date".
3. Section 60320.124(c): Effective date of June 18, 2014, is to be inserted in one place on page 35 to replace the bracketed language "insert effective date".
4. Section 60320.200(a): Effective date of June 18, 2014, is to be inserted in four different places on page 43 to replace the bracketed language "insert effective date".
5. Section 60320.208(d): Effective date of June 18, 2014, is to be inserted in one place on page 55 to replace the bracketed language "insert effective date".
6. Section 60320.224(c): Effective date of June 18, 2014, is to be inserted in one place on page 71 to replace the bracketed language "insert effective date".

The effective date was inadvertently not added to the regulation text prior to filing. I am forwarding the corrected pages for filing with the Secretary of State to be kept with the prior filing of the above-entitled regulations (OAL file no. 2014-0612-01E). Please retain this communication with your copy of the above-entitled regulations. Thank you.

Johnson, Beverly@OAL

From: Cortez, Linda M (CDPH-EXE-OLS) [Linda.Cortez@cdph.ca.gov]
Sent: Friday, June 20, 2014 11:05 AM
To: Johnson, Beverly@OAL
Subject: RE: OAL File No.: 2014-0612-01EFP Groundwater Replenishment Using Recycled Water Regulation
Attachments: DPH-14-003E GW Replenishment using RW_Reg Text_20140530 FINAL.doc

This subsequent email authorizes OAL to add the effective date of June 18, 2014, to the regulation text in the following sections:

Bottom of Page 10 to top of Page 11 in section 60320.100(a): effective date to be inserted four different times
Middle of Page 18 in section 60320.108(e): effective date to be inserted once
Bottom of Page 35 in section 60320.124(c): effective date to be inserted once
Page 43 in section 60320.200(a): effective date to be inserted four different times
Middle of Page 55 in section 60320.208(d): effective date to be inserted once
Top of Page 71 in section 60320.224(c): effective date to be inserted once

In addition, OAL is authorized to provide the pages to the Secretary of State.

Thank you.

From: Johnson, Beverly@OAL [<mailto:Beverly.Johnson@oal.ca.gov>]
Sent: Friday, June 20, 2014 10:52 AM
To: Cortez, Linda M (CDPH-EXE-OLS)
Subject: RE: OAL File No.: 2014-0612-01EFP Groundwater Replenishment Using Recycled Water Regulation

Thanks Linda. I also need your authorization to add the date to the regulation text. We will need to get a copy of the pages with the date to the Secretary of State.

Beverly

From: Cortez, Linda M (CDPH-EXE-OLS) [<mailto:Linda.Cortez@cdph.ca.gov>]
Sent: Friday, June 20, 2014 10:48 AM
To: Johnson, Beverly@OAL
Subject: OAL File No.: 2014-0612-01EFP Groundwater Replenishment Using Recycled Water Regulation

Hi Beverly,

Thank you for taking the time to discuss the issue with the effective date for the subject rulemaking file. As discussed, this email authorizes OAL to inform the publisher where to insert the effective date of June 18, 2014, in the emergency regulation text. Below are the specific sections and the page numbers where a date is needed.

Bottom of Page 10 to top of Page 11 in section 60320.100(a): effective date to be inserted four different times
Middle of Page 18 in section 60320.108(e): effective date to be inserted once
Bottom of Page 35 in section 60320.124(c): effective date to be inserted once
Page 43 in section 60320.200(a): effective date to be inserted four different times
Middle of Page 55 in section 60320.208(d): effective date to be inserted once
Top of Page 71 in section 60320.224(c): effective date to be inserted once

Please let me know if you have any questions.

Thank you,

Linda M. Cortez, Regulations Coordinator

Department of Public Health

Office of Regulations & Hearings

916-440-7807

Linda.Cortez@cdph.ca.gov



Save a tree. Don't print this e-mail unless it's necessary

EMERGENCY

File
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refer to

ENDORSED FILED
For use by Secretary of State only
OF THE OFFICE OF

STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
NOTICE OF AGENCY ACTION/REGULATORY ACTION

STD. 400 (REV. 01-2013)

| | | | |
|--|---------------------------------|--------------------------|--|
| OAL FILE NUMBER | NOTICE FILE NUMBER Z- | REGULATORY ACTION NUMBER | EMERGENCY NUMBER 2014-0612-01EFP |
| For use by Office of Administrative Law (OAL) only | | 2014 JUN 18 PM 1:56 | |
| NOTICE | | REGULATIONS | |
| AGENCY WITH RULEMAKING AUTHORITY California Department of Public Health | | | AGENCY FILE NUMBER (if any) DPH-14-003E |

2014 JUN 12 AM 11:25

OFFICE OF ADMINISTRATIVE LAW

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| | | | |
|---|--|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| OAL USE ONLY | ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | NOTICE REGISTER NUMBER | PUBLICATION DATE |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
|--|---|
| 1a. SUBJECT OF REGULATION(S) Groundwater-Replenishment Using Recycled Water | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) | |
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | ADOPT 60301.050, 60301.080, 60301.180, 60301.190, 60301.370, 60301.390, 60301.450, 60301.455, (see attached) |
| | AMEND 60323 |
| TITLE(S) 22 | REPEAL 60320 |
| 3. TYPE OF FILING | |
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | |
| <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | |
| <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input checked="" type="checkbox"/> File & Print <input checked="" type="checkbox"/> Other (Specify) Emerg. F&P per Water Code §13562.5 | |
| <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only | |
| 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) | |
| 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) | |
| <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> 5100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) | |
| 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY | |
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) | |
| 7. CONTACT PERSON Linda M. Cortez | TELEPHONE NUMBER 916-440-7807 |
| FAX NUMBER (Optional) 916-440-5747 | E-MAIL ADDRESS (Optional) linda.cortez@cdph.ca.gov |

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

| | |
|---|----------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Karin B. Schwartz</i> | DATE 6/9/14 |
| TYPED NAME AND TITLE OF SIGNATORY Deputy Director and Chief Counsel, Karin B. Schwartz | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 18 2014

Office of Administrative Law

DPH-14-003E
Groundwater Replenishment Using Recycled Water

Attachment to Notice Publication/Regulations Submission (Std. 400)

ADOPT (continued)

60301.575, 60301.625, 60301.670, 60301.680, 60301.685, 60301.690, 60301.705,
60301.770, 60301.780, 60301.810, 60301.840, 60301.850, 60301.855, 60301.860,
60301.870, 60301.910, 60320.100, 60320.102, 60320.104, 60320.106, 60320.108,
60320.110, 60320.112, 60320.114, 60320.116, 60320.118, 60320.120, 60320.122,
60320.124, 60320.126, 60320.128, 60320.130, 60320.200, 60320.201, 60320.202,
60320.204, 60320.206, 60320.208, 60320.210, 60320.212, 60320.214, 60320.216,
60320.218, 60320.220, 60320.222, 60320.224, 60320.226, 60320.228, and 60320.230

per agency
request



ARTICLE 5.1. Indirect Potable Reuse: Groundwater-Recharge Replenishment – Surface Application

(25) Repeal Section 60320:

§60320. Groundwater Recharge.

~~a) Reclaimed water used for groundwater recharge of domestic water supply aquifers by surface spreading shall be at all times of a quality that fully protects public health. The State Department of Health Services' recommendations to the Regional Water Quality Control Boards for proposed groundwater recharge projects and for expansion of existing projects will be made on an individual case basis where the use of reclaimed water involves a potential risk to public health.~~

~~(b) The State Department of Health Services' recommendations will be based on all relevant aspects of each project, including the following factors: treatment provided; effluent quality and quantity; spreading area operations; soil characteristics; hydrogeology; residence time; and distance to withdrawal.~~

~~(c) The State Department of Health Services will hold a public hearing prior to making the final determination regarding the public health aspects of each groundwater recharge project. Final recommendations will be submitted to the Regional Water Quality Control Board in an expeditious manner.~~

~~NOTE: Authority cited: Section 208, Health and Safety Code; and Section 13521, Water Code. Reference: Sections 13520 and 13521, Water Code.~~

(26) Adopt Section 60320.100 as follows:

§60320.100. General Requirements.

(a) The requirements of this Article apply to Groundwater Replenishment Reuse Projects (GRRPs) utilizing surface application, which receive initial permits from the Regional Board after June 18, 2014. Within 12 months after, June 18, 2014

SA per agency request 6/20/2014

SA per agency request 6/20/2014

_____ a project sponsor for a GRRP permitted on or before June 18, 2014 shall submit a report to the Department and appropriate Regional Board assessing its compliance with the requirements of this Article. For each requirement considered noncompliant and applicable by the Department or Regional Board, a project sponsor shall submit a schedule to the Department and Regional Board, for demonstrating and/or achieving compliance with the applicable requirements of this Article. Unless directed otherwise by the Department, a project sponsor's report for a GRRP permitted on or before June 18, 2014, need not assess compliance with requirements of this Article that are required to be met prior to operation of a GRRP, except subsection (b) of this section. The report is subject to review and approval by the Department and Regional Board.

(b) Prior to operation of a GRRP, the GRRP's project sponsor shall obtain Department approval of a plan describing the steps a project sponsor will take to provide an alternative source of drinking water supply to all users of a producing drinking water well, or a Department-approved treatment mechanism a project sponsor will provide to all owners of a producing drinking water well, that as a result of the GRRP's operation, as determined by the Department:

(1) violates a California or federal drinking water standard;

(2) has been degraded to the degree that it is no longer a safe source of drinking water; or

(3) receives water that fails to meet section 60320.108.

(c) Prior to operating a GRRP, a project sponsor shall collect at least four samples, at least one sample each quarter, from each potentially affected aquifer. The samples shall be representative of water in each aquifer, taking into consideration seasonal variations, and be analyzed for the chemicals, contaminants, and characteristics pursuant to sections 60320.110, 60320.112, 60320.118, and 60320.120.

(d) A GRRP's recycled municipal wastewater shall be retained underground for a period of time no less than the retention time required pursuant to sections 60320.108

consistently achieve the log reduction. The report and/or challenge test shall be prepared by an engineer licensed in California with at least five years of experience, as a licensed engineer, in wastewater treatment and public water supply, including the evaluation of treatment processes for pathogen control. With the exception of retention time underground and a soil-aquifer treatment process, a project sponsor shall propose and include in its Operation Optimization Plan prepared pursuant to section 60320.122, on-going monitoring using the pathogenic microorganism of concern or a microbial, chemical, or physical surrogate parameter(s) that verifies the performance of each treatment process's ability to achieve its credited log reduction.

(e) To demonstrate the retention time underground in subsection (c), a tracer study utilizing an added tracer shall be implemented under hydraulic conditions representative of normal GRRP operations. The retention time shall be the time representing the difference from when the water with the tracer is applied at the GRRP to when either; two percent (2%) of the initially introduced tracer concentration has reached the downgradient monitoring point, or ten percent (10%) of the peak tracer unit value observed at the downgradient monitoring point reached the monitoring point. A project sponsor for a GRRP shall initiate the tracer study prior to the end of the third month of operation. A project sponsor for a GRRP permitted on or before *June 18, 2014*, that has not already performed such a tracer study shall complete a tracer study demonstrating the retention time underground. With Department approval, an intrinsic tracer may be used in lieu of an added tracer, with no more credit provided than the corresponding virus log reduction in column 2 of Table 60320.108.

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per agency
request
6/20/2014

(f) For the purpose of siting a GRRP location during project planning and until a GRRP's project sponsor has met the requirements of subsection (e), for each month of retention time estimated using the method in column 1, the recycled municipal wastewater or recharge water shall be credited with no more than the corresponding virus log reduction in column 2 of Table 60320.108.

NOTE: Authority cited: Sections 13521, 13562 and 13562.5, Water Code; and Sections 131052 and 131200, Health and Safety Code. Reference: Sections 13520, 13522, 13522.5, 13523, 13523.1, 13524, 13560, 13561 and 13562.5, Water Code.

(38) Adopt Section 60320.124 as follows:

§60320.124. Response Retention Time.

(a) The recycled municipal wastewater applied by a GRRP shall be retained underground for a period of time necessary to allow a project sponsor sufficient response time to identify treatment failures and implement actions, including those required pursuant to section 60320.100(b), necessary for the protection of public health.

(b) The response retention time required in subsection (a) must be approved by the Department, based on information provided in the engineering report required pursuant to section 60323. The response retention time shall be no less than two months.

(c) To demonstrate the retention time underground is no less than the response retention time approved pursuant to subsection (b), a tracer study utilizing an added tracer shall be implemented under hydraulic conditions representative of normal GRRP operations. With Department approval, an intrinsic tracer may be used in lieu of an added tracer. For each month of retention time estimated utilizing the approved intrinsic tracer, a project sponsor shall receive no more than 0.67 months credit. The retention time shall be the time representing the difference from when the water with the tracer is applied at the GRRP to when either; two percent (2%) of the initially introduced tracer concentration has reached the downgradient monitoring point, or ten percent (10%) of the peak tracer unit value observed at the downgradient monitoring point reaches the monitoring point. A project sponsor for a GRRP shall initiate the tracer study prior to the end of the third month of operation. A project sponsor for a GRRP permitted on or before June 18, 2014, that has not performed a tracer study shall complete a tracer study demonstrating the retention time underground.

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per agency
request

6/20/2014

ARTICLE 5.2. Indirect Potable Reuse: Groundwater Replenishment – Subsurface Application

(42) Adopt Section 60320.200 as follows:

§60320.200. General Requirements.

per agency request 6/20/2014 (a) The requirements of this Article apply to Groundwater Replenishment Reuse Projects (GRRPs) utilizing subsurface application, which receive initial permits from the Regional Board after June 18, 2014. Within 12 months after June 18, 2014 *per agency request 6/20/2014* a project sponsor for a GRRP permitted on or before June 18, 2014 shall submit a report to the Department and appropriate Regional Board assessing its compliance with the requirements of this Article. For each requirement considered noncompliant and applicable by the Department or Regional Board, a project sponsor shall submit a schedule to the Department and Regional Board, for demonstrating and/or achieving compliance with the applicable requirements of this Article. Unless directed otherwise by the Department, a project sponsor's report for a GRRP permitted on or before June 18, 2014 need not assess compliance with requirements of this Article that are required to be met prior to operation of a GRRP, except subsection (b) of this section. The report is subject to review and approval by the Department and Regional Board. A project sponsor shall ensure the GRRP continuously treats, with full advanced treatment meeting the criteria in section 60320.201, the entire recycled municipal wastewater stream prior to application.

per agency request 6/20/2014 (b) Prior to operation of a GRRP, the GRRP's project sponsor shall obtain Department approval of a plan describing the steps a project sponsor will take to provide an alternative source of drinking water supply to all users of a producing drinking water well, or a Department-approved treatment mechanism a project sponsor will provide to all owners of a producing drinking water well, that as a result of the GRRP's operation, as determined by the Department:

(1) violates a California or federal drinking water standard;

(d) To demonstrate the retention time underground in subsection (b) a tracer study utilizing an added tracer shall be implemented under hydraulic conditions representative of normal GRRP operations. The retention time shall be the time representing the difference from when the water with the tracer is applied at the GRRP to when either: two percent (2%) of the initially introduced tracer concentration has reached the downgradient monitoring point, or ten percent (10%) of the peak tracer unit value observed at the downgradient monitoring point reached the monitoring point. A project sponsor for a GRRP shall initiate the tracer study prior to the end of the third month of operation. A project sponsor for a GRRP permitted on or before June 18, 2014 that has not already performed such a tracer study shall complete a tracer study demonstrating the retention time underground. With Department approval, an intrinsic tracer may be used in lieu of an added tracer, with no more credit provided than the corresponding virus log reduction in column 2 of Table 60320.208.

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per agency
request
6/20/2014

(e) For the purpose of siting a GRRP location during project planning and until a GRRP's project sponsor has met the requirements of subsection (d), for each month of retention time estimated using the method in column 1, the recycled municipal wastewater or recharge water shall be credited with no more than the corresponding virus log reduction in column 2 of Table 60320.208.

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per agency
request 6/20/2014

before June 18, 2014 that has not performed a tracer study shall complete a tracer study demonstrating the retention time underground.

(d) For the purpose of siting a GRRP location during project planning and until a GRRP's project sponsor has met the requirements of subsection (c), for each month of retention time estimated using the method in column 1, the recycled municipal wastewater or recharge water may be credited with no more than the corresponding response time in column 2 of Table 60320.224.

Table 60320.224

| <u>Column 1</u> | <u>Column 2</u> |
|---|--|
| <u>Method used to estimate the retention time</u> | <u>Response Time Credit per Month</u> |
| <u>Tracer study utilizing an added tracer.¹</u> | <u>1.0 month</u> |
| <u>Tracer study utilizing an intrinsic tracer.¹</u> | <u>0.67 month</u> |
| <u>Numerical modeling consisting of calibrated finite element or finite difference models using validated and verified computer codes used for simulating groundwater flow.</u> | <u>0.50 month</u> |
| <u>Analytical modeling using existing academically-accepted equations such as Darcy's Law to estimate groundwater flow conditions based on simplifying aquifer assumptions.</u> | <u>0.25 month</u> |