

**AN ORDINANCE OF THE SACRAMENTO COUNTY CODE RELATING TO
PROTECTION OF DRINKING WATER – CROSS CONNECTION PREVENTION**

SECTION 1. Chapter 6.30, Title 6, of the Sacramento County Code is repealed in its entirety.

SECTION 2. Chapter 6.30, Sections 6.30.005 through 6.30.280, is added to Title 6 of the Sacramento County Code to read as follows:

6.30.005 Title.

These regulations shall be known as the "Protection of Drinking Water-Cross Connection Prevention."

6.30.010 Authority.

This Chapter is enacted pursuant to California Health and Safety Code (CHSC) Section 116805, and Title 17 of the California Code of Regulations (17 CCR) Section 7584, which authorizes the implementation of a cross-connection control program to protect against backflow through service connections into the public water supply. In Sacramento County, the Sacramento County Environmental Management Department (EMD) is designated to carry out this program.

EMD shall implement the provisions of this Chapter for a Public Water Supplier whose program participation is determined by means of a contract pursuant to CHSC 116805 and 17 CCR Section 7584, or where EMD has local primacy delegation (LPA) for the administration and enforcement for the small water systems as provided for in the LPA delegation.

6.30.020 Purpose.

The purpose of this Chapter is:

1. To protect public water systems and small water systems against cross-connections by isolating within premises, contamination or pollution that may occur because of undiscovered or unauthorized cross-connections on premises;
2. To eliminate existing connections between public water systems and other sources of water that are not approved as safe and potable for human consumption;
3. To prevent the creation of cross-connections in the future;
4. To provide a means to assure compliance with a comprehensive cross-connection control program.
5. To ensure compliance with standards, laws, and guidelines adopted, and/or modified by the County of Sacramento, the State of California and applicable regulatory agencies.

6.30.030 Scope and Applicability.

The provisions of this Chapter shall apply to those premises, where the Public Water Supplier which has jurisdiction has contracted with EMD for administration of the cross connection control program, or where EMD has local primacy delegation (LPA) for the administration and enforcement for the small water systems as provided for in the LPA delegation.

6.30.040 Administration.

Except as otherwise provided, EMD is charged with the responsibility of administering this Chapter and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this Chapter as necessary to implement such purpose, intent and express terms.

6.30.050 Definitions.

The meanings of terms used in this Chapter are as follows:

1. "Air-Gap Separation" shall mean a vertical physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air-gap separation" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the receiving vessel and in no case shall be less than one inch.

2. "Approved," as used in reference to a public water system, shall mean a water supply that has been approved by the agency having jurisdiction; or, in reference to backflow prevention assemblies, shall mean approved by EMD.

3. "Approved Testing Laboratory" shall mean a person or entity that is competent and possesses the necessary facilities, as determined by EMD, to investigate and evaluate backflow prevention assemblies.

4. "Atmospheric Vacuum Breaker (non-pressure)" shall mean a backflow prevention device containing a shut-off valve followed by a valve body containing a float-check, a check seat and an air inlet port.

5. "Auxiliary Water System" shall mean any water supply on or available to an Owner and/or Operator's premises other than an approved public water system.

6. "Backflow" means a reversal of flow caused by differential pressure in which any liquid, gas or other substance enters the public water system.

7. "Backflow Prevention Assembly" means an approved assembly, device, or means designed to prevent backflow. Such devices must be approved by a testing agency acceptable to EMD.

8. "Certified Backflow Prevention Assembly Tester" shall mean a person who has been certified by the American Water Works Association, or equivalent as having the necessary training and competence to test backflow prevention assemblies and is registered by EMD.

9. "Cross-Connection" shall mean any unprotected actual or potential connection or structural arrangement between any part of a public water system used or intended to supply water for human consumption, and any source or system containing liquid, gas or other substance that is not or cannot be approved as safe, wholesome and potable for human consumption.

10. "Owner and/or Operator" shall mean any person who is in control or is responsible for the premises that is receiving water from an approved public water system. For the purposes of this chapter, the term "Person" means an individual, partnership, corporation, limited liability company, association, trust or any other legal entity.

11. "EMD" means the Sacramento County Environmental Management Department.

12. "Director" means the Director of the Sacramento County Environmental Management Department, or his/her designee.

13. "Double Check Valve Assembly" shall mean a backflow prevention device incorporating two single, independently acting check valves, a shut-off valve at each end of the device and necessary appurtenances for testing as required by EMD.

14. "Health Officer" means the Health Officer for Sacramento County, or his/her authorized representative.

15. "Premises" means the property under the ownership or control of the Owner and/or Operator and served, or capable or being served, with water via a service connection with the public water system.

16. "Pressure Vacuum Breaker Assembly" shall mean a backflow prevention device incorporating one or two independently operating, loaded check valve(s), an independently operating loaded air inlet valve, a shut-off valve at each end of the device and necessary appurtenances for testing as required by EMD.

17. "Public Water Supplier" means any person, corporation, public utility, municipality, district or other agency or institution that owns or operates a public water system.

18. "Public Water System" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year as defined in CHSC section 116275(h).

19. "Reduced Pressure Principle Assembly" shall mean a backflow prevention device incorporating two independently acting check valves, a hydraulically operating, mechanically independent pressure relief valve, a shut-off valve at each end of the device and necessary appurtenances for testing, as required by EMD.

20. "Service Connection" shall mean the point at which the public water system piping ends and the water system piping of the Owner and / or Operator begins. If a meter is installed as part of the public water system, then the term 'service connection' shall mean the downstream end of the meter.

21. "Small Water Systems" means a Community Water System with less than 200 service connections and all Non-Community Water Systems as defined in CHSC sections 116275 (i)(k)(n)(o).

6.30.060 Owner / Operator Responsibility.

It shall be the responsibility of each Owner and/or Operator to provide, install, and maintain all backflow prevention assemblies in compliance with this Chapter.

6.30.070 Backflow Protection Requirement.

A. Where Protection is Required:

1. Protection shall be required at each service connection from a public water system that supplies water to premises having an auxiliary water system.

2. Protection shall be required at each service connection from a public water system that supplies water to premises on which any substance is or may be handled in such a manner as to permit entry into a public water system, including water originating from a public water system which is or may be subjected to deterioration in sanitary quality.

3. Protection shall be required at each service connection to any premises that has cross-connections unless such cross-connections are abated to the satisfaction of the Department.

The type of protection that shall be provided to prevent backflow into a public water system or a small water system shall be commensurate with the degree of hazard that exists on the Owner and/or Operator's premises. The types of backflow prevention devices that may be required (listed in an increasing level of protection) include: Double Check Valve Assembly (DC), Reduced Pressure Principle Assembly (RP), or an Air-Gap Separation (AG). The Owner and/or Operator may choose a higher level of protection than required by this Section.

Premises or situations which are not listed in this Section shall be evaluated on a case by case basis and the appropriate type of protection shall be determined by the Public Water Supplier who has jurisdiction, or by EMD.

The minimum level of required service connection protection at specific Owner and/or Operator's premises and facilities shall include the following, unless otherwise specified by a cross connection control hazard assessment performed by the Public Water Supplier who has jurisdiction:

1. Aircraft and Missile Plants – RP
2. Automotive Plants – RP
3. Autopsy Facilities – RP
4. Auxiliary Water Systems – Defined as any water supply on, or available to, an Owner and/or Operator's premises other than an approved public water system:
 - a. Auxiliary water systems with no known cross-connections – DC
 - b. Auxiliary water systems where cross-connections are known to exist - RP
5. Beverage Bottling Plants – RP
6. Breweries – RP
7. Buildings:
 - a. Hotels, apartment houses, public and private buildings, or other structures where sewage pumps and/or sewage ejectors have been installed – RP
 - b. Any commercial structure in which the specific business activity cannot be ascertained – RP
 - c. Multi-storied buildings that use booster pumps or elevated storage tanks to distribute potable water within the premises – DC
 - d. Any building that exceeds forty (40) feet in height, as measured from the service connection to the highest water outlet – DC
8. Canneries, Packing Houses and Reduction Plants – RP
9. Chemical Plants – Any premises, served from a public water supply, where there is a facility requiring the use of water in the industrial process of manufacturing, storing, compounding or processing chemicals. This will also include

facilities where chemicals are used as additives to the water supply or in the processing of products – RP

10. Chemically Contaminated Water Systems – Any premises, served from a public water supply, where chemicals are used as additives to the water supply, or where the water supply is used for transmission or distribution of chemicals, or where chemicals are used with water in the compounding or processing of products – RP
 11. Cold Storage Plants – RP
 12. Convalescent Homes – RP
 13. Dairy Processing plants – RP
 14. Dental Clinics – RP
 15. Dry Cleaning Facilities – RP
 16. Dye Works – RP
 17. Film Processing Facilities or Film Manufacturing Plants - RP
 18. Fire Protection Systems that are supplied from a public water system:
 - a. Low-Hazard Fire Protection Systems:
 - i. Fire protection system is directly supplied from a public water system and where there is an auxiliary water supply on or to the premises (not interconnected) – DC
 - ii. Fire protection system is supplied from a public water system and where either elevated storage tanks or fire pumps which take suction from private reservoirs and tanks are used – DC
 - iii. Fire protection system is directly supplied from a public water system and interconnected with another public water service – DC
 - b. High-Hazard Fire Protection Systems:
 - i. Fire protection system is directly supplied from a public water system and interconnected with an auxiliary water supply – RP
 - ii. Fire protection system is supplied from a public water system and contains any hazardous substance – RP
 19. Hazardous or potentially hazardous treatment processes, handling and/or pumping equipment interconnected to a piping system that can be connected to the public water system - AG
 20. Hospitals – RP
 21. Ice Manufacturing Plants – RP
 22. Irrigation Systems:
 - a. Premises or locations where facilities have been installed for pumping, injecting or spreading fertilizers, pesticides or other hazardous substances – RP
 - b. Premises or locations having a separate service connection for irrigation purposes – RP
 23. Laboratories – Including, but not limited to, teaching institutions, biological and analytical facilities – RP
 24. Laundries (Commercial) – RP
 25. Medical Buildings and Clinics – RP
 26. Metal Manufacturing, Cleaning, Processing or Fabricating Plants – RP
 27. Morgues – RP
 28. Mortuaries – RP
 29. Multi-Storied Buildings (see “Buildings” above)

30. Multiple Services: Includes two or more interconnected services provided by one or more water suppliers to a single Owner and/or Operator complex - RP
31. Nursing Homes – RP
32. Oil/Gas Production, Storage or Transmission premises – RP
33. Paper and Paper Products Manufacturing Plants – RP
34. Plastic Manufacturing, Extruding and Injection Molding – RP (see “Chemical Plants” above)
35. Plating Plants – RP
36. Portable Spray or Cleaning Equipment which can be connected to a public water system – AG
37. Radioactive Materials or Substances – Plants or Facilities that process, handle or store radioactive materials or substances – RP
38. Recycled Water Distribution Systems:
 - a. Premises where the public water system is used to supplement the recycled water system – AG
 - b. Premises where recycled water is used and there is no interconnection with the potable water system – RP
39. Restricted, Classified or Other Closed Facilities – RP
40. Rubber Manufacturing Plants – Natural or Synthetic – RP
41. Sand and Gravel Plants – RP
42. Sanitariums – RP
43. Schools, Colleges and Universities – RP
44. Sewage treatment processes, handling and/or pumping equipment interconnected to a piping system that can be connected to the public water system - AG
45. Solar Heating Systems:
 - a. Solar collector system which contains any hazardous substance and where there is a direct makeup connection to the public water system – RP
 - b. Service connection protection is not required for “once through” solar heating systems including, but not limited to, domestic hot water systems.
46. Tank Trucks – AG (see “Portable Spray” and “Cleaning Equipment” above)
47. Vehicle Washing Facilities – RP
48. Veterinary Clinics – RP
49. Waterfront Facilities and Industries – Including, but not limited to, docks, fisheries, fish hatcheries and marinas – RP

6.30.080 Approval of Backflow Prevention Assemblies

The EMD list of approved backflow prevention assemblies includes the list of approved backflow prevention assemblies as formulated by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, which is current at the time of the assembly installation.

6.30.090 Existing Backflow Prevention Assemblies.

1. Backflow prevention assemblies in service at the time of adoption of this Chapter, which do not comply with the provisions of this Chapter, may continue in use until the assembly is determined to be defective.

2. Any such assembly that is determined to be defective shall be replaced by an assembly that complies with the provisions of this Chapter.

6.30.100 Authority to Inspect.

The Owner and / or Operator's premises shall be available for inspection during reasonable hours to authorized representatives of EMD to determine if protection of the public water system is required at the service connection(s).

6.30.110 Testing and Reports.

A. Any Owner and/or Operator of a facility or premises where a service connection with a backflow prevention assembly is installed pursuant to this Chapter, shall have each such assembly tested at the time of installation and annually thereafter or more often as EMD may require. All required field testing shall be performed by a person who is currently registered pursuant to Section 6.30.130 of this Chapter.

B. Reports of tests of backflow prevention assemblies shall be filed with EMD within 20 calendar days following completion of the tests.

1. For reports of tests of backflow prevention assemblies that have passed field testing, an approved, annually issued tag issued by EMD shall be affixed to the device. The tag serial number shall be included on the test report that is submitted to EMD.

2. For reports of tests of backflow prevention assemblies that have failed field testing, a failed red tag issued by EMD shall be affixed to the device. The red tag serial number shall be included on the test report that is submitted to EMD. Additionally, the tester shall provide written notification of the device failure to EMD, and the Public Water Supplier having jurisdiction within 24 hours, and submit the failed test report results within five calendar days to EMD, and the Public Water Supplier having jurisdiction.

C. The Owner and/or Operator of a facility or premises shall repair or replace any defective backflow prevention assembly as specified by the provisions of this Chapter. The participating Public Water Supplier or EMD may require the Owner and/or Operator to replace any existing assembly.

6.30.120 Installation Requirements for Backflow Protection Assemblies.

A. Air-gap Separation (AG):

1. An air-gap separation shall be located on the Owner and/or Operator's side of, and as close to, the service connection, as is practicable.

2. All piping from the service connection to the receiving tank shall be above grade and should be accessible for visual inspection, unless otherwise approved by EMD.

B. Reduced Pressure Principle Assembly (RP):

1. RP to be installed above ground, in a horizontal and level position, on the Owner and / or Operator's side of, and as close to, the service connection, as is practicable, unless otherwise approved by EMD.

2. RP to be installed a minimum of 12 inches above finished grade and not more than 36 inches above finished grade as measured from the bottom of the assembly, and shall be readily accessible for maintenance and testing.

3. There shall be no outlet, tee, tap, take-off or connection of any sort to or from the supply pipe line, between the service connection and the backflow prevention assembly.

4. RP shall be installed in such a way that no part of the assembly will be submerged during normal operating and weather conditions.

C. Double Check Valve Assembly (DC):

1. DC to be installed above ground in a horizontal and level position on the Owner and / or Operator's side of, and as close to the service connection as is practicable, unless otherwise approved by EMD.

2. DC to be installed a minimum of 12 inches above finished grade and not more than 36 inches above finished grade as measured from the bottom of the assembly, and shall be readily accessible for maintenance and testing.

3. There shall be no outlet, tee, tap, take-off or connection of any sort to or from the supply pipe line, between the service connection and the backflow prevention assembly.

D. Pressure Vacuum Breaker (PVB):

1. PVB to be installed above ground in a horizontal and level position, on the Owner and/or Operator's side of, and as close to the service connection as is practicable, unless otherwise approved by EMD.

2. PVB to be installed a minimum of 12 inches above all downstream piping, and shall be readily accessible for maintenance and testing.

3. There shall be no outlet, tee, tap, take-off or connection of any sort, to or from the supply pipe line, between the service connection and the backflow prevention assembly.

6.30.130 Backflow Prevention Assembly Tester (Tester) Requirements.

In order to perform backflow prevention assembly testing services in Sacramento County, a person must:

A. Be certified by the American Water Works Association, or equivalent.

B. Have the proper testing equipment that has been calibrated to the manufacturer's specifications within the previous 12 months.

C. A person may apply for registration with EMD by:

1. Submitting a written application to EMD on a form provided by and in a manner prescribed by EMD. The application shall include:

a. The submission of a certificate of completion from an approved backflow device tester's course and performance examination.

b. A copy of the calibration report for the test gage that will be used in field testing procedures. The report shall demonstrate that the testing equipment has been calibrated to the manufacturer's specifications within the previous 12 months, prior to application to EMD.

c. A person who wishes to perform backflow prevention assembly testing services within Sacramento County must annually register with EMD prior to performing testing services.

d. Each application shall be accompanied by a fee as specified by Chapter 6.99 of the Sacramento County Code. This fee shall not be refundable or transferable.

6.30.140 Backflow Prevention Assembly Field Test Procedures and Testing Equipment.

A. Field testing procedures shall be conducted pursuant to the edition of the "Manual of Cross-Connection Control," published by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research for which the tester has been certified.

B. For the testing of reduced pressure principle assemblies and pressure vacuum breakers: Required equipment shall include a differential pressure gauge incorporating a minimum differential range of 0-15 pounds per square inch (psi) with maximum 0.2 psi graduations.

C. For the testing of double check valve assemblies: Required equipment shall include a differential pressure gauge incorporating a minimum differential range of 0-15 pounds per square inch psi with maximum 0.2 psi graduations.

D. All testing equipment shall be calibrated annually according to the manufacturer's specifications, and shall include all necessary hoses and fittings.

6.30.150 Notice of Violation.

The Director or his or her designee, may issue a Notice of Violation to any person found to be in violation of a provision of this Chapter, including, but not limited to, any regulation, information request, order, variance, condition, or other requirement that the Director, and/or his or her designee, is authorized to enforce or implement pursuant to this Chapter. Issuance of a Notice of Violation may also result in issuance of an Administrative Enforcement Order pursuant to Section 6.30.170 of this Chapter, or in the Suspension or Revocation of a Tester's Registration.

6.30.160 Notice of Violation—Content.

A. In addition to any other content, a Notice of Violation shall contain the following elements:

1. A statement of the Director's, or his or her designee's, findings that indicate a violation has occurred.

2. A citation of the provision of this Chapter including any regulation, permit, information request, order, variance, condition, or other requirement that has been violated.

3. A date by which any person must be in compliance with this Chapter including any regulation, permit, information request, order, variance, condition, or other requirement, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The Director, or his or her designee, may extend the compliance date when good cause exists for such an extension.

4. Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.

5. Notification that a violation of this Chapter may result in an Administrative Civil Penalty, in accordance with Section 6.30.170 of this Chapter, or in criminal penalties.

6. Notification that the correction of any alleged violation(s) within the specified deadline date(s) will not necessarily prevent the Director, or his or her designee, from issuing an Administrative Enforcement Order and imposing administrative civil penalties relating to the alleged violation(s) or from suspending or revoking a tester's registration.

B. In addition to any other content, a Notice of Violation may establish required corrective actions, including but not limited to the following:

1. Terms, conditions, and requirements reasonably related to the provisions of this Chapter, including the following:

a. Cessation of prohibited actions.

b. Correction of prohibited conditions.

c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this Chapter.

d. Inspection and/or reporting requirements to demonstrate ongoing compliance.

2. A requirement that the person receiving same shall submit written certification to the Director, or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the Notice of Violation may require documentation that substantiates the certification including, but not limited to, receipts, inspection reports, contracts, or photographs.

3. Any other terms or conditions reasonably calculated to prevent additional or on-going violations of this Chapter.

C. An Administrative Enforcement Order may be issued separately, but only after issuance of a Notice of Violation, or in combination with a Notice of Violation, for the same violations or set of related violations.

6.30.170 Administrative Enforcement Order.

A. If the Director, or his or her designee, determines that a person has committed, or is committing, a violation of any provision, permit, information request, order, variance, condition, or other requirement of this Chapter that the Director, or his or her designee, is authorized to enforce or implement, the Director, or his or her designee, may issue an Administrative Enforcement Order after issuing a Notice of Violation or, in combination with this Notice of Violation, requiring that the violation be corrected and imposing an administrative penalty.

B. The violator shall be liable for a penalty of not more than \$1,000 for each day on which each violation occurs and/or continues.

6.30.180 Administrative Enforcement Order—Content.

A. In addition to any other content, an Administrative Enforcement Order shall contain the following elements:

1. A statement of the Director's, or his or her designee's, findings that indicate a violation has occurred.
2. A citation of the provision of this Chapter including any regulation, information request, order, variance, condition, or other requirement that has been violated.
3. A date by which any person must be in compliance with this Chapter, or a date by which an action plan must be submitted by the person to propose a means and time frame by which to correct violations. The Director, or his or her designee, may extend the compliance date when good cause exists for such an extension.
4. Notification that continued non-compliance may result in additional enforcement action being taken against the business, facility, or any responsible persons.
5. Notification as to whether an Administrative Civil Penalty is imposed and the terms and conditions of payment, if any.
6. In establishing the Penalty amount, the Director, and/or his or her designee, shall take into consideration:
 - a. The nature, circumstances, extent, and gravity of the violation;
 - b. The violator's past and present efforts towards compliant behavior;
 - c. The violator's ability to pay the Penalty;
 - d. The deterrent effect that the imposition of the Penalty would have on both the violator and the community.
7. Notification that the recipient has a right to a hearing on the matter as set forth in Section 6.30.220 of this Chapter to appeal any findings or required corrective actions established by the Director, or his or her designee.
8. Notification of procedures for requesting a hearing established according to Section 6.30.220 of this Chapter.
 - B. In addition to any other content, an Administrative Enforcement Order may establish required corrective actions, including the following:
 1. Terms, conditions, and requirements reasonably related to the provisions of this Chapter, including the following:
 - a. Cessation of prohibited actions.
 - b. Correction of prohibited conditions.
 - c. A requirement for submittal of a written action plan for achieving and maintaining compliance with this Chapter.
 - d. Inspection and/or reporting requirements to demonstrate ongoing compliance.
 2. A requirement that the person receiving same shall submit written certification to the Director, or his or her designee, that the necessary corrective actions have been completed. As appropriate for the type of correction action taken, the Administrative Enforcement Order may require documentation that substantiates the certification including, but not limited to, receipts, permits, inspection reports, contracts, or photographs.
 3. Any other terms or conditions reasonably calculated to prevent additional or on-going violations of this Chapter.

6.30.190 Injunctions.

When any person has engaged in, is engaged in, or threatens to engage in, any acts or practices which violates this Chapter, or any resolution, rule, or regulation adopted pursuant to this Chapter, the Office of the County Counsel for Sacramento County may apply to any court of competent jurisdiction for an order enjoining those acts or practices, or for an order directing compliance

6.30.200 Cease and Desist Orders.

A. EMD may issue a cease and desist order requiring the Owner and/or Operator of any facility, or any other person responsible for any violation of this Chapter, to take the following actions:

1. Immediately discontinue use of the water system.
2. Immediately discontinue any other violation of this Chapter.
3. Satisfactorily remediate the area affected by the violation.

B. The Administrator may issue an administrative enforcement order, pursuant to Section 6.30.180 of this Chapter, if it has been determined that an owner and/or operator, or any other person has not complied with any or all provision(s) of any cease and desist order.

6.30.210 Delivery of Notice or Order.

Any Notice of Violation, Notice of Suspension/Revocation of Tester Registration, Administrative Enforcement Order, or other enforcement action pursuant to the requirements of this Chapter shall be subject to the following requirements:

A. Delivery of the aforementioned shall be deemed complete upon either personal delivery to the recipient or by certified mail.

B. Where the recipient of the Notice or Order is the owner of the premises, the address for Notice or Order shall be the address from the most recently issued equalized assessment roll for the premises.

C. Where the owner or occupant of any premises cannot be located after reasonable efforts of the Director, or his or her designee, the Notice or Order shall be deemed delivered after posting on the premises for a period of 10 business days.

6.30.220 Appeals.

A. Any person, owner or operator served with an Administrative Enforcement Order and/or Notice of Suspension/Revocation of Tester Registration issued pursuant to this Chapter who has been unable to resolve any violation with the Director, and/or his or her designee, may within 15 days after service of the order, request a hearing pursuant to this Section by filing with the Director, or his or her designee, a Notice of Defense, which form shall be provided with the Administrative Enforcement Order or Notice of Suspension/Revocation of Tester Registration.

1. A Notice of Defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked no later than 15 days after service of the order.

2. If no Notice of Defense is filed within the time limits provided by this subdivision, the Administrative Enforcement Order or Notice of Suspension/Revocation of Tester Registration shall become final.

B. A person, owner or operator requesting a hearing on an Order issued by the Director, or his or her designee, under this Chapter may select the Hearing Officer specified in either subparagraph (1) or (2) in this Section by indicating so on the Notice of Defense filed with the Director, or his or her designee. If a Notice of Defense is filed but no Hearing Officer is selected, the Director, or his or her designee, may select the Hearing Officer pursuant to either subparagraph (1) or (2) of this Section. Within 60 days of receipt of the Notice of Defense by the Director, and/or his or her designee, the hearing shall be scheduled using one of the following:

1. An Administrative Law judge of the Office of Administrative Hearings of the Department of General Services, shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3, Title 2, of the Government Code, and the Director, or his or her designee, shall have all the authority granted to the agency by those provisions.

2. A Sacramento County Hearing Officer appointed pursuant to Government Chapter sections 27720, et seq. Each Hearing Officer shall also meet the requirements of Government Chapter, Section 11425.30 and any applicable restriction.

C. When a hearing is conducted by a Hearing Officer designated by the Director, or his or her designee, the Hearing Officer shall issue a decision within 30 days after the hearing is conducted. Each Hearing Officer designated by the Director, or his or her designee, shall meet the requirements of Section 11425.30 of the Government Code and any other applicable restriction.

D. Alternative dates for the hearing may be established by mutual consent of the person, owner or operator, and the Director, or his or her designee, or as ordered by the Hearing Officer.

E. The hearing decision issued pursuant to subparagraph (C) of this Section shall be effective and final upon issuance by the Director, or his or her designee. A copy of the decision shall be served by personal service or by certified mail upon the party served with the order, or their representative, if any.

F. The hearing decision issued pursuant to subparagraph (C) of this Section may be reviewed by a court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this section, the court shall uphold the decision of the Director, and/or his or her designee, if the decision is based upon substantial evidence in the record as a whole. The filing of a petition for writ of mandate shall not stay any action required pursuant to this Chapter or the accrual of any penalties assessed pursuant to this Chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

G. All administrative penalties and filing fees, collected from actions brought by the Director, or his or her designee, pursuant to this Section, paid to the Director, or his or her designee, shall be deposited into a special account that shall be expended to fund the activities of EMD in enforcing this Chapter.

6.30.230 Conduct of Hearings—Generally.

A. General. At the time set for hearing, the Hearing Officer shall state what the prima facie case is, what the burden of proof is, and what the range of penalties is. The Hearing Officer shall proceed to hear the testimony of the Director, or his or her designee, the person, and other competent persons respecting the circumstances of the

violation, and other relevant facts concerning the matter. The Hearing Officer shall follow the rules of procedure for conducting hearings established by this Chapter.

B. **Record of Oral Evidence at Hearing.** A record of the entire hearing proceedings shall be made by either a certified court reporter or any other means of permanent recording determined to be appropriate by the Hearing Officer. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefore. Such fees may be established and revised from time to time by the Director, or his or her designee.

C. **Continuances.** The Hearing Officer may, upon request of the person, a party in interest, or the Director, or his or her designee, grant continuances from time to time for good cause shown, or upon his/her own motion. Any continuance granted shall in no way diminish the responsibility of the person and/or parties in interest for maintaining the premises, nor affect other requirements of this Chapter regarding time for challenging any decisions made or actions taken.

D. **Oaths—Certification.** The Hearing Officer or certified court reporter shall administer the oath or affirmation.

E. **Evidence Rules.** Government Chapter of the State of California, Section 11513, as presently written, or hereinafter amended, shall apply to hearings conducted under this Chapter.

F. **Rights of Parties.** Parties may represent themselves, or be represented by anyone of their choice. Each party may appear at the hearing and offer evidence in this matter and cross examine witnesses.

G. **Official Notice.** In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state.

H. **Burden of Proof.** The burden of proof in hearings held pursuant to this Chapter shall be as follows:

1. In the case of any Notice or Order, the Director, or his or her designee, shall bear the burden of proof, by a preponderance of evidence, to show that a violation of this Chapter has occurred.

2. In the case of a Notice of Administrative Civil Penalty, the Director, and/or his or her designee, shall bear the burden of proof, by a preponderance of evidence, to show that a Penalty should be assessed.

3. In the case of an appeal regarding the occurrence of a violation, or of required corrective actions, the appellant shall bear the burden of proof, by clear and convincing evidence, to show cause for amending or rejecting all or part of the corrective actions or requirements imposed by the Director, or his or her designee, by a Notice or Order.

6.30.240 Form and Contents of Decision—Finality of Decision.

A. Following the hearing, the Hearing Officer shall issue an Order, in writing, no later than 30 days from the date of the hearing, unless the time is waived by the parties. The Order shall contain findings of fact and rationale appropriate to the violation and result, and a resolution of the essential issues raised, including the following:

1. Confirmation or denial of the occurrence of violations of this Chapter that are alleged by the Director, or his or her designee;

2. Confirmation or rejection of any Administrative Civil Penalty sought by the Director, or his or her designee, and establishment of the monetary amount of any Administrative Civil Penalty to be enforced; and

3. Confirmation, amendment, or rejection of required corrective actions related to compliance with this Chapter that are imposed by the Director, or his or her designee, but only if those requirements are appealed by the person.

B. The Hearing Officer's order shall uphold required corrective actions if the person fails to show clear and convincing evidence that the required corrective actions are unreasonable or unnecessary for achieving or demonstrating ongoing compliance with this Chapter. The Hearing Officer's order may amend, or reject required corrective actions, provided that compliance with this Chapter will be achieved.

C. The Hearing Officer's Order shall inform the person that failure to comply with the Hearing Officer's Order shall constitute a misdemeanor and is subject to additional enforcement action, including criminal penalties and additional civil and administrative penalties.

D. The Hearing Officer's Order shall inform the person that the time and manner by which a person may file a challenge to the Hearing Officer's order is governed by Government Code section 53069.4 or any successor provision thereto.

E. The order issued by the Hearing Officer pursuant to this Chapter shall be effective upon issuance. A copy of the order shall be delivered by the Hearing Officer in accordance with this Chapter.

F. Preparation of a record of the administrative proceeding shall be governed by the provisions of Code of Civil Procedure section 1096.4.

G. Any challenge to the Order of the Hearing Officer concerning any appeal or Administrative Civil Penalty shall be governed by Government Code section 53069.4, or any successor provision thereto. Service of the Notice of Appeal authorized by Government Code section 53069.4 on EMD shall be served upon the Director.

H. After any notice or order made pursuant to this Chapter shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey such order. The Director, or his or her designee, may pursue, through County Counsel or the District Attorney, appropriate judicial action against any person who fails to comply with any such Notice or Order, including charging that person with a misdemeanor offense.

6.30.250 Procedures for Collection of Administrative Civil Penalty.

A. The Administrative Civil Penalty shall be due and payable within 30 days after the Hearing Officer's decision is issued. If the penalty is not timely paid, the Director, and/or his or her designee, may pursue all reasonable and legal means in collecting those sums authorized and due.

B. All Administrative Civil Penalties collected from actions brought pursuant to this Chapter shall be paid to the Director, or his or her designee, enforcing this Chapter, and shall be deposited into a special account that shall be expended to fund the activities of EMD to implement the applicable provisions of this Chapter.

6.30.260 Actions Not Prohibited.

This Chapter does not do any of the following:

A. Otherwise affect the authority of the Director, or his or her designee, to take any other action authorized by any other provision of law.

B. Restrict the power of a city attorney, district attorney, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.

6.30.270 Rules and Regulations.

EMD is authorized to make all necessary and reasonable rules and regulations with respect to the enforcement of this Chapter. All such rules and regulations shall be consistent with the provisions of this Chapter and shall be effective 30 days after being filed with the Clerk of the Board of Supervisors.

6.30.280 Fees.

Fees for cross connection control tags and other regulatory items associated with this Chapter are prescribed by Sacramento County Code Chapter 6.99.

SECTION 3. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on April 6, 2010, and on April 6, 2010, further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Supervisor Nottoli, seconded by Supervisor MacGlashan, the foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Sacramento, State of California, this 13th day of April 2010, by the following vote:

AYES: Supervisors, MacGlashan, Nottoli, Yee, Peters, Dickinson
NOES: Supervisors, None
ABSENT: Supervisors, None
ABSTAIN: Supervisors, None



Ray Dickinson
Chair of the Board of Supervisors
of Sacramento County, California

In accordance with Section 25103 of the Government Code of the State of California a copy of the document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on 4/13/10
By J. Rodgers
Deputy Clerk, Board of Supervisors

ATTEST: Cynde Lee
Clerk, Board of Supervisors

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FILED
BOARD OF SUPERVISORS
APR 13 2010
By Cynde Lee
CLERK OF THE BOARD