



# **Failing Water Systems: The Human Right to Water (HR2W) List Criteria**

May 2024

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## Background

On September 25, 2012, Governor Edmund G. Brown Jr. signed Assembly Bill (AB) 685, making California the first state in the nation to legislatively recognize the human right to water (HR2W). Now in the Water Code as Section 106.3, the state statutorily recognizes that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.” The HR2W extends to all Californians, including disadvantaged individuals and groups and communities in rural and urban areas.

On February 16, 2016, the State Water Board adopted a resolution identifying the human right to water as a top priority and core value of the State Water Board and Regional Water Quality Control Boards (collectively the Water Boards). The resolution stated the Water Boards will work “to preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations.”

## Failing Systems

The State Water Board assesses water systems that fail to meet the goals of the HR2W and maintains a list and map of these systems on its website. Systems that are on the Failing list are those that are out of compliance or consistently fail to meet drinking water standards. Systems that are assessed for meeting the Failing criteria include Community Water Systems (CWSs) and Non-Community Water Systems (NCWSs) that serve schools and daycares. The Failing criteria was expanded in March 2021 to better align with statutory definitions of what it means for a water system to “consistently fail” to meet drinking water standards.<sup>1</sup> The Failing criteria was expanded again in March 2024 to include new source capacity and water outage related violations.

Table 1 summarizes the new expanded criteria. The expansion of the criteria results in approximately 19 water systems being added to the Failing list. The following sections provides an overview of the criteria methodology for identifying systems that meet the Failing criteria. Additional details regarding the history of the Failing list can be found on the State Water Board’s HR2W webpage.<sup>2</sup>

**Table 1: Expanded Criteria for Failing Water Systems**

| Criteria   | Jan. 2017 – Apr. 2021 | Apr. 2021 – Apr. 2024 | After Apr. 2024 |
|--|-----------------------|-----------------------|-----------------|
| <b>Primary MCL Violation with an open Enforcement Action</b>   | Yes                   | Yes                   | Yes             |
| <b>Secondary MCL Violation with an open Enforcement Action</b> | Yes                   | Yes                   | Yes             |

<sup>1</sup> California Health and Safety Code Section 116275(c)

<sup>2</sup> [Human Right to Water | California State Water Resources Control Board](https://www.waterboards.ca.gov/water_issues/programs/hr2w/)  
[https://www.waterboards.ca.gov/water\\_issues/programs/hr2w/](https://www.waterboards.ca.gov/water_issues/programs/hr2w/)

| Criteria   | Jan. 2017 – Apr. 2021 | Apr. 2021 – Apr. 2024 | After Apr. 2024 |
|--|-----------------------|-----------------------|-----------------|
| <b>E. coli Violation with an open Enforcement Action</b>   | No                    | Yes                   | Yes             |
| <b>Treatment Technique Violations</b> <ul style="list-style-type: none"> <li>• One or more Treatment Technique violations with an open Enforcement Action.</li> <li>• Three or more Treatment Technique violations within the last three years regardless of Enforcement Action status.</li> </ul>   | Partially             | Expanded              | Yes             |
| <b>Monitoring and Reporting Violations</b> <ul style="list-style-type: none"> <li>• Must have at least 3 Monitoring and Reporting Violations where: <ul style="list-style-type: none"> <li>○ At least one must have an associated Enforcement Action that has been open for greater than 15 months and has not come back into compliance; and</li> <li>○ One or more Monitoring and Reporting violation(s) that have occurred within the last three years (with or without an open associated Enforcement Action)</li> </ul> </li> </ul> | No                    | Yes                   | Yes             |
| <b>Source Capacity &amp; Water Outage Violations with an open Enforcement Action</b>   | No                    | No                    | Yes             |

## Failing List Criteria

### Primary MCL Violation with an Open Enforcement Action

In accordance with federal regulations, California requires public water systems to sample their sources and have the samples analyzed for inorganic and organic substances in order to determine compliance with drinking water standards, also known as maximum contaminant levels (MCLs). Primary MCLs are based on health protection, technical feasibility, and costs. The water system must notify the State Water Board and the public when a primary MCL has been violated and take appropriate action.

### Failing Criteria

- At least one Primary MCL Violation with an associated open Enforcement Action.

## Methodology

- **Step 1:** Determine which systems have incurred a Primary MCL Violation using the SDWIS database.
  - Query systems that only have MCL violations. See list of violation codes below.
  - Search violations in SDWIS for all associated with primary contaminants – see table below for the analyte codes.

**Table 2: Violation Types Related to a Primary MCL**

| Violation Number | Violation Type                               | Description   |
|------------------|--|---|
| 01               | <b>MCL, Single Sample</b>                    | MCL violation based on a single sample, or an organic analyte that is 10X the MCL.  |
| 02               | <b>MCL, Numeric Average of Samples Taken</b> | A violation for an inorganic, organic, or radiological constituent where compliance is based on a running annual average or more monitoring period average.                 |
| MB               | <b>Primary State MCL</b>                     | An MCL violation of State regulated contaminants.   |
| MP               | <b>POU/POE<sup>3</sup> MCL</b>               | MCL violation for a water system using POU/POE. This is a failure to properly implement POU/POE and is considered a violation of a variance/exemption granted by the State. |

**Table 3: Analytes with a Primary MCL in SDWIS**

| Analyte Name                | SDWIS Analyte Code |
|-----------------------------|--------------------|
| 1,1,1-TRICHLOROETHANE       | 2981               |
| 1,1,2,2-TETRACHLOROETHANE   | 2988               |
| 1,1,2-TRICHLOROETHANE       | 2985               |
| 1,1-DICHLOROETHANE          | 2978               |
| 1,1-DICHLOROETHYLENE        | 2977               |
| 1,2,3-TRICHLOROPROPANE      | 2414               |
| 1,2,4-TRICHLOROBENZENE      | 2378               |
| 1,2-DIBROMO-3-CHLOROPROPANE | 2931               |
| 1,2-DICHLOROETHANE          | 2980               |
| 1,2-DICHLOROPROPANE         | 2983               |

<sup>3</sup> Point-of-Use (POU) and Point-of-Entry (POE)

| Analyte Name                  | SDWIS Analyte Code |
|-------------------------------|--------------------|
| 1,3-DICHLOROPROPENE           | 2413               |
| 2,3,7,8-TCDD                  | 2063               |
| 2,4,5-TP                      | 2110               |
| 2,4-D                         | 2105               |
| 38-STRONTIUM-90               | 4174               |
| ALUMINUM                      | 1002               |
| ALUMINUM, DISSOLVED           | C250               |
| ANTIMONY, TOTAL               | 1074               |
| ARSENIC                       | 1005               |
| ASBESTOS                      | 1094               |
| ATRAZINE                      | 2050               |
| BARIUM                        | 1010               |
| BENTAZON                      | 2625               |
| BENZENE                       | 2990               |
| BENZO(A)PYRENE                | 2306               |
| BERYLLIUM, TOTAL              | 1075               |
| BHC-GAMMA                     | 2010               |
| BROMATE                       | 1011               |
| CADMIUM                       | 1015               |
| CARBOFURAN                    | 2046               |
| CARBON TETRACHLORIDE          | 2982               |
| CHLORATE                      | 1007               |
| CHLORITE                      | 1009               |
| CHLOROBENZENE                 | 2989               |
| CHROMIUM                      | 1020               |
| CIS-1,2-DICHLOROETHYLENE      | 2380               |
| CIS-1,3-DICHLOROPROPENE       | 2228               |
| COMBINED RADIUM (-226 & -228) | 4010               |
| COMBINED URANIUM              | 4006               |
| CYANIDE                       | 1024               |
| DALAPON                       | 2031               |
| DI(2-ETHYLHEXYL) ADIPATE      | 2035               |
| DI(2-ETHYLHEXYL) PHTHALATE    | 2039               |
| DICHLOROMETHANE               | 2964               |

| Analyte Name                  | SDWIS Analyte Code |
|-------------------------------|--------------------|
| DIQUAT                        | 2032               |
| ENDOTHALL                     | 2033               |
| ENDRIN                        | 2005               |
| ETHYLBENZENE                  | 2992               |
| ETHYLENE DIBROMIDE            | 2946               |
| FLUORIDE                      | 1025               |
| GLYPHOSATE                    | 2034               |
| GROSS ALPHA PARTICLE ACTIVITY | 4109               |
| GROSS BETA PARTICLE ACTIVITY  | 4100               |
| HEPTACHLOR                    | 2065               |
| HEPTACHLOR EPOXIDE            | 2067               |
| HEXACHLOROBENZENE             | 2274               |
| HEXACHLOROCYCLOPENTADIENE     | 2042               |
| LASSO                         | 2051               |
| MANGANESE, DISSOLVED          | 1034               |
| MERCURY                       | 1035               |
| METHOXYCHLOR                  | 2015               |
| METHYL TERT-BUTYL ETHER       | 2251               |
| MOLINATE                      | 2626               |
| NICKEL                        | 1036               |
| NITRATE                       | 1040               |
| NITRATE-NITRITE               | 1038               |
| NITRITE                       | 1041               |
| O-DICHLOROBENZENE             | 2968               |
| OXAMYL                        | 2036               |
| P-DICHLOROBENZENE             | 2969               |
| PENTACHLOROPHENOL             | 2326               |
| PERCHLORATE                   | 1039               |
| PICLORAM                      | 2040               |
| SELENIUM                      | 1045               |
| SIMAZINE                      | 2037               |
| STYRENE                       | 2996               |
| TETRACHLOROETHYLENE           | 2987               |
| THALLIUM, TOTAL               | 1085               |

| Analyte Name                           | SDWIS Analyte Code |
|--|--------------------|
| THIOBENCARB (BOLERO)                   | 2727               |
| TOLUENE                                | 2991               |
| TOTAL HALOACETIC ACIDS (HAA5)          | 2456               |
| TOTAL POLYCHLORINATED BIPHENYLS (PCB)  | 2383               |
| TOTAL RADIUM FOR NTNC PER §64442(B)(3) | C080               |
| TOXAPHENE                              | 2020               |
| TRANS-1,2-DICHLOROETHYLENE             | 2979               |
| TRICHLOROETHYLENE                      | 2984               |
| TRICHLOROFLUOROMETHANE                 | 2218               |
| TRICHLOROTRIFLUOROETHANE               | 2904               |
| TRITIUM                                | 4102               |
| TTHM                                   | 2950               |
| TURBIDITY, FIELD                       | C254               |
| VINYL CHLORIDE                         | 2976               |
| XYLENES, TOTAL                         | 2955               |

- **Step 2:** Determine which systems have an associated open Enforcement Action associated with those Violations.
- **Step 3:** Determine which systems do not have a SOX (State Compliance Achieved) Enforcement Action associated with the Enforcement Action. A SOX Enforcement Action indicates when the system has returned to compliance or met the obligations of the Enforcement Action.
  - These systems meet the failing criteria and are added to the Failing list.
- **Step 4:** A system will no longer meet the Primary MCL Violation Failing criteria once a SOX Enforcement Action associated with the open Primary MCL Violation has been entered into SDWIS.
  - Per U.S. EPA guidance:
    - A new permitted source with contaminant levels below the MCL will automatically qualify the water system to return to compliance and a SOX Enforcement Action will be issued.
    - Installation of treatment requires a running annual average less than an MCL before a SOX Enforcement Action is issued.



## Secondary MCL Violation with an Open Enforcement Action

In accordance with federal regulations, California requires public water systems to sample their sources and have the samples analyzed for inorganic and organic substances in order to determine compliance with drinking water standards, also known as MCLs. Secondary MCLs are based on consumer acceptance, using parameters such as odor, taste, and appearance as measures of acceptability. The water system must notify the State Water Board and the public when a secondary MCL has been violated and take appropriate action.

### Failing Criteria

- At least one Secondary MCL Violation with an associated open Enforcement Action.

### Methodology

- **Step 1:** Determine which systems have incurred a Secondary MCL Violation using the SDWIS database.
  - Query systems that only have MCL violations. See list of violation codes below.
  - Search violations in SDWIS for all associated with secondary contaminants: Analyte Codes: 1080, 1039, 1032, 1028, 1002, 1905, 1022, 2905, C030, 1920, 1050, 2727, 0100, 1095, 2978, 2413, 2251, 2625, and/or 2626.

**Table 4: Violation Types Related to a Secondary MCL**

| Violation Number | Violation Type                               | Description   |
|------------------|--|---|
| 01               | <b>MCL, Single Sample</b>                    | MCL violation based on a single sample, or an organic analyte that is 10X the MCL.  |
| 02               | <b>MCL, Numeric Average of Samples Taken</b> | A violation for an inorganic, organic, or radiological constituent where compliance is based on a running annual average or more monitoring period average. |
| MA               | <b>Secondary MCL</b>                         | Violation where the water system exceeded the secondary MCL contaminant levels as stated in Title 22 CCR §64449   |

- **Step 2:** Determine which systems have an associated open Enforcement Action associated with those Violations.
- **Step 3:** Determine which systems do not have a SOX Enforcement Action associated with the Enforcement Action. A SOX Enforcement Action indicates

when the system has returned to compliance or met the obligations of the Enforcement Action.

- These systems meet the failing criteria and are added to the Failing list.
- **Step 4:** A system will no longer meet the Secondary MCL Violation Failing criteria once a SOX Enforcement Action associated with the open Secondary MCL Violation has been entered into SDWIS.

### ***E. coli* Violation with an Open Enforcement Action**

Total coliform, fecal coliform, and *E. coli* are all indicators of drinking water quality. The total coliform group is a large collection of different kinds of bacteria. Fecal coliforms are types of total coliform that mostly exist in feces. *E. coli* is a sub-group of fecal coliforms. When a water sample is sent to a lab, it is tested for total coliform. If total coliform is present, the sample will also be tested for either fecal coliform or *E. coli*, depending on the lab testing method. The presence of *E. coli* in a drinking water sample almost always indicates recent fecal contamination, meaning there is a greater risk that pathogens are present.

If a system incurs an *E. coli* MCL violation, it must perform a Level 2 assessment and provide Tier 1 public notification to its customers. RTCR requires public notice within 24 hours after receiving confirmation of an *E. coli* MCL violation. There are four ways a water system can have an *E. coli* MCL violation:

- A total coliform-present repeat sample follows an *E. coli*-present routine sample.
- An *E. coli*-present repeat sample follows a total coliform-present routine sample.
- There is a failure to test a total coliform-present repeat sample for *E. coli*.
- The system fails to take all required repeat samples following an *E. coli*-present routine sample.

A system that incurs an *E. coli* Treatment Technique Violation occurs when a system:

- Fails to conduct or fully complete a required Level 1 or Level 2 Assessment within 30 days of the regulatory trigger.
- Fails to correct any sanitary defect by taking required corrective action within the required timeframe.

### **Failing Criteria**

- At least one *E. coli* Violation with an open associated Enforcement Action.

### **Methodology**

- **Step 1:** Determine which systems have incurred *E. coli* Violations using the SDWIS database.
  - Search violations in SDWIS for all associated with *E. coli* Analyte Code: 3014 and 8000.

- Query systems that only have *E. coli* related treatment technique and/or MCL violations. See list of violation codes below:

**Table 5: Identified Violation Types Related to *E. coli***

| Violation Number | Violation Type   | Description  |
|------------------|--|--|
| 1A               | <b>MCL, <i>E. coli</i>, Positive <i>E. coli</i> (RTCR)</b> | <i>E. coli</i> MCL violation based on a single sample. |

- **Step 2:** Determine which systems have an Enforcement Action associated with those Violations.
- **Step 3:** Determine which systems do not have a SOX Enforcement Action associated with the Enforcement Action. A SOX Enforcement Action indicates when the system has returned to compliance or met the obligations of the Enforcement Action.
  - These systems meet the failing criteria and are added to the Failing list.
- **Step 4:** A system will no longer meet the *E. coli* Violation Failing criteria once a SOX Enforcement Action associated with the *E. coli* Violation has been entered into SDWIS.

### Treatment Technique Violations (in lieu of an MCL)

Primary drinking water standards, as defined in Section 116275 of the CHSC, includes specific treatment techniques adopted by the state board in lieu of maximum contaminant levels. Treatment technique violations in these cases have similar potential for adverse public health effects as maximum contaminant levels. Systems must carry out specified treatment when there is no economically and technically feasible method to measure the concentration of a contaminant to determine if there is a public health concern.

A treatment technique is an enforceable procedure or level of technological performance, which public water systems must follow to ensure control of a contaminant. The treatment technique rules also list the best available technology for meeting the standard, and the compliance technologies available and affordable for small systems. Some examples of treatment technique rules are the:

- Surface Water Treatment Rule<sup>4</sup> (disinfection and filtration)

<sup>4</sup> [Title 22 CCR, Division. 4, Chapter 17 Surface Water Treatment](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I501543B0D4BA11DE8879F88E8B0DAAAE&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I501543B0D4BA11DE8879F88E8B0DAAAE&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I501543B0D4BA11DE8879F88E8B0DAAAE&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

- Ground Water Rule<sup>5</sup>
- Lead and Copper Rule (optimized corrosion control)
- Acrylamide and Epichlorohydrin Rules (purity of treatment chemicals)

This type of violation is incurred when a water system does not follow required treatment techniques to reduce the risk from contaminants, *e.g.* exceeding turbidity performance requirements at a surface water treatment plant, failing to provide required disinfection, *etc.*

### Failing Criteria

- One or more Treatment Technique violations (in lieu of an MCL), for primary contaminants, with an open Enforcement Action; and/or
- Three or more Treatment Technique violations (in lieu of an MCL), for primary contaminants, within the last three years.
  - This criterion is being added because treatment technique violations are often associated with a violation for a single month. Therefore, a series of treatment technique violations is assumed to be indicative of a larger treatment issue.

### Methodology

- **Step 1:** Determine how many Treatment Technique violations (in lieu of an MCL), for primary contaminants, water systems have incurred over the last three years.

**Table 6: Treatment Technique Violations in Lieu of an MCL**

| Violation Number | Treatment Technique Violation Type  | Description   |
|------------------|-------------------------------------|---|
| 07               | <b>Treatment Techniques (Other)</b> | A violation where the water system failed to treat water using acrylamide and/or epichlorohydrin as part of their treatment process.  |
| 11               | <b>Non-Acute, MRDL</b>              | A violation of the maximum disinfectant residual level (MRDL) for chlorine, chloramine, or chlorine dioxide.  |
| 13               | <b>MRDL, Acute</b>                  | A violation where the public water system has a daily sample taken at the entrance to the distribution system which exceeds the maximum disinfectant residual level (MRDL) for chlorine dioxide and on the following day, one or more, of the three samples |

<sup>5</sup> [Title 22 CCR, Division 4, Chapter 15, Article 3.5 Groundwater Rule](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I729BEDE0B98711E0B493EB23F8012672&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I729BEDE0B98711E0B493EB23F8012672&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I729BEDE0B98711E0B493EB23F8012672&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

| Violation Number | Treatment Technique Violation Type                 | Description   |
|------------------|--|---|
|                  |  | taken in the distribution system exceed the MRDL.   |
| 40               | <b>Treatment Technique (FBRR)</b>                  | For public water systems with conventional or direct filtration that recycle flows only, failure to return filter backwash through all treatment elements.  |
| 41               | <b>Failure to Maintain Microbial Treatment</b>     | A violation where water system that provides treatment failed to maintain 4-log virus removal and/or did not restore proper operation within hours of becoming aware of the problem; or where the system failed to take actions specific by the state to address the contamination of cryptosporidium 40 CFR 141.711(d); or where a water system using surface water failed to achieve a combined filter effluent turbidity level of 0.5 NTU in 95% of the monthly measurements for conventional or direct filtration or failed to achieve a combined filter turbidity level that at no time exceeded 1.0 NTU for conventional or direct filtration, or does not meet the residual disinfectant concentration level for longer than the specified period of time. |
| 42               | <b>Failure to Provide Treatment</b>                | A violation where a water system using surface water fails to install filtration and the system does not meet filtration avoidance criteria; or where a multiple source water system fails to install treatment in response to a positive source sample; or where a filtered water system fails to achieve treatment credit requirements according to the stated provision for one month, failure to provide LT2 treatment.   |
| 43               | <b>Single Turbidity Exceedance (Enhanced SWTR)</b> | A violation where a water system using filtered surface water failed to achieve a combined filter turbidity level that at no time exceeded 1.0 NTU for conventional or direct filtration or failed to achieve combined filter turbidity level that at no time exceeded the primary agency set maximum performance standard for alternative filtration technology.   |

| Violation Number | Treatment Technique Violation Type                  | Description  |
|------------------|---|--|
| 44               | <b>Monthly Turbidity Exceedance (Enhanced SWTR)</b> | A violation where a water system using filtered surface water failed to achieve a combined filter effluent turbidity level of 0.3 NTU in 95% of the monthly measurements for conventional or direct filtration or failed to achieve a combined filtration effluent turbidity level performance standard set by the primacy agency in 95% of the monthly measurements for alternative filtration technology.  |
| 45               | <b>Failure to Address a Deficiency</b>              | A violation where a water system fails to respond in writing to Significant Deficiency how and on what schedule the system will address deficiency within 45 days of report receipt; or where a water system failed to meet approved corrective action schedule, or the schedule contained in the system's response; or where a water system failed to address a Significant Deficiency within the State or County's specified schedule or 120 days from the date of notification of Significant Deficiency. |
| 46               | <b>Treatment Technique Precursor Removal</b>        | For public water systems with conventional filtration only, failure to meet the disinfection byproduct precursor removal ratio.  |
| 47               | <b>Uncovered Reservoir</b>                          | A violation where a water system constructed an uncovered finished water storage reservoir facility on or after 02.16.1999; or where a water system fails to cover any uncovered finished water storage facility or fails to treat the discharge from the uncovered finished water storage facility to the distribution system.  |
| 48               | <b>Failure to Address Contamination</b>             | A violation where a water system failed to take corrective action in response to a positive fecal indicator sample within 120 days, including failure to satisfy a State/County specified schedule.  |
| 57               | <b>OCCT/SOWT Recommendation (Lead and Copper)</b>   | A violation where a water system failed to submit an optimal corrosion control treatment (OCCT) study/recommendation.  |

| <b>Violation Number</b> | <b>Treatment Technique Violation Type</b>                | <b>Description</b>  |
|-------------------------|--|---|
| 58                      | <b>OCCT/SOWT Install Demonstration (Lead and Copper)</b> | A violation where a water system failed to install/demonstrate optimal corrosion control treatment (OCCT) or source water treatment (SOWT).   |
| 59                      | <b>WQP Level Non-Compliance (Lead and Copper)</b>        | A violation where a water system failed to maintain optimal water quality parameters (OWQP) minimum or ranges or meets daily values for more than 9 days in a 6-month monitoring period for entry point and tap sampling.                                 |
| 63                      | <b>MPL Level Non-Compliance (Lead and Copper)</b>        | A violation where a water system failed to meet the maximum permissible level (MPL).  |
| 64                      | <b>Lead Service Line Replacement</b>                     | A violation where a water system failed to replace the requirement amount of lead service line (LSL) by the annual deadline. Provide PN, report information, collect TAP samples, and/or mail/post results.   |
| 65                      | <b>Public Education</b>                                  | A violation where a water system failed to provide public education that meets the lead content, reporting, and delivery requirements.  |
| 2B                      | <b>Level 2 Assessment</b>                                | A violation where a water system fails to conduct a Level 2 Assessment or complete the form; or where the Level 2 Assessment is inadequate, or the content is insufficient; or where the Level 2 Assessment assessor is not State-approved.               |
| 2C                      | <b>Corrective Actions/Expedited Action</b>               | A violation where a water system fails to complete corrective actions within the required timeframe when a Level 1 or Level 2 Assessment is triggered; or failure to comply with State-required expedited/additional actions when an E. coli MCL happens. |
| 2E                      | <b>Treatment Technique Violation</b>                     | A system fails to complete the initial lead service line inventory <sup>6</sup> by October 16, 2024. CFR §141.80(f)(3) & CFR§141.80(a).   |

<sup>6</sup> Absence of a service line inventory presents unknown service lines that could be of concern. The only way to address this issue is by completing the service line inventory, which is a “Treatment Technique.”

| Violation Number | Treatment Technique Violation Type           | Description   |
|------------------|--|---|
| T1               | <b>State Violation – Treatment Technique</b> | A violation where the water system failed to treat water using a treatment process that the state has primacy to regulate (i.e. treatment failed per their permit). |

- **Step 2:** Determine which systems have had three or more Treatment Technique violations (in lieu of an MCL) within the last three years.
  - These systems meet the failing criteria and are added to the Failing list.
- **Step 3:** Determine which systems have an open Enforcement Action related to one or more Treatment Technique violation in SDWIS.
  - These systems meet the failing criteria and are added to the Failing list.
- **Step 4:** A system will no longer meet the Treatment Technique Violation Failing criteria once:
  - SOX Enforcement Actions associated with all Treatment Technique violations have been entered into SDWIS; and
  - The water system has less than three Treatment Technique violations within the last three years.

### Monitoring & Reporting Violations

Water systems must meet health-based federal standards for contaminants, including performing regular monitoring and reporting. The State Water Board’s primary means of monitoring water system compliance with the Safe Drinking Water Act (SDWA) and its implementing regulations is the review and evaluation of analytical results of water samples collected by public water systems. These reports provide the water systems and regulators with the data they need to ensure that drinking water monitoring is ongoing and that the drinking water standards are being met.

When results indicate that a contaminant is present at a level that exceeds standards, the State Water Board works with water systems to take steps to prevent or remove the contaminants. Under the SDWA, water systems are also required to inform their customers of any violations of the state's drinking water standards. In the absence of adequate data, serious health violations may be obscured from regulatory oversight.

A Monitoring & Reporting Violations as discussed in this section occurs when a water system fails to conduct regular monitoring of drinking water quality or to submit monitoring results in a timely fashion to the primacy agency or the State Water Board. Monitoring and reporting violations are included in the definition of primary drinking water standards in CHSC Section 116275(c). The State Water Board recognizes that there are various types of monitoring and reporting violations. Only those violations



related directly to a contaminant associated with a primary drinking water standard, e.g. MCLs or treatment techniques, are being included.

The State Water Board also recognizes that a single monitoring and reporting violation may not represent a failing condition. However, multiple monitoring and reporting violations, particularly those that remain unaddressed, do represent a condition where significant water quality violations may go undetected and unaddressed.

### Failing Criteria

- Must have at least 3 Monitoring and Reporting Violations where:
  - At least one must have an associated Enforcement Action that has been open for greater than 15 months and has not come back into compliance; and
  - One or more Monitoring and Reporting violation(s) that have occurred within the last three years (with or without an open associated Enforcement Action)

### Methodology

- **Step 1:** Determine how many Monitoring & Reporting violations have occurred over the last three years and how many violations have an open associated Enforcement Action that have been open for 15 months or greater. (Does not have to be within the last three years.)

**Table 7: Monitoring & Reporting Violations**

| Violation Number | Monitoring & Reporting Violation Type             | Description   |
|------------------|---|---|
| 03               | <b>Regular Monitoring</b>                         | A violation for inorganic, organic, or radiological constituent where compliance is based on routine samples.   |
| 04               | <b>Monitoring, Check, Repeat, or Confirmation</b> | A violation for an inorganic, organic, or radiological constituent where compliance is based on repeat or confirmation samples.   |
| 19               | <b>Failure to Conduct Assessment Monitoring</b>   | Failure to complete source water assessment monitoring.   |
| 27               | <b>Routine Monitoring (DBP)</b>                   | A violation where the water system failed to have a DBP Monitoring Plan, failed to comply with monitoring and reporting requirements, or failed to monitor and report the DBP samples in accordance with their DBP Monitoring Plan. |
| 29               | <b>Failure Submit Filter Profile/CPE Report</b>   | For a public water system using surface water only, failure to conduct a comprehensive performance evaluation   |

| Violation Number | Monitoring & Reporting Violation Type  | Description  |
|------------------|--|--|
|                  |  | and/or produce a filter assessment due to an individual filter turbidity exceedance.   |
| 31               | <b>Monitoring of Treatment (Surface Water Treatment Rule – Unfiltered/GWR)</b> | A violation where a water system using unfiltered surface water failed to perform and/or repeat monitoring for TC/FC and turbidity; A violation where a water system that is implementing 4-LOG removal treatment for viruses failed to monitor or report compliance monitoring; A violation for LT2 where an unfiltered water system fails to monitor according to 40 CFR 141.701(a)(2) |
| 32               | <b>Monitoring, Source Water (LT2)</b>  | For a public water system using surface water only, failure to submit a complete source water monitoring plan and/or failure to complete monitoring from said plan.  |
| 34               | <b>Source Water Monitoring (Groundwater Rule)</b>                              | A violation where a water system failed to conduct surface water monitoring for either – triggered, additional monitoring, or for assessment purposes (PWS's without 4-log removal treatment must perform source water monitoring when a TCR monitoring results on a Total Coliform-positive).   |
| 36               | <b>Monitoring of Treatment (Surface Water Treatment Rule – Filter)</b>         | A violation where a water system using filtered surface water failed to perform routine and/or repeat monitoring for filtration or disinfection process.   |
| 38               | <b>Turbidity (Enhanced Surface Water Treatment Rule) Monitoring</b>            | A violation where a water system using filtered surface water failed to monitor and report the required combined filter effluent samples or individual filter effluent sample.   |
| 51               | <b>Initial Tap Sampling for Lead and Copper</b>                                | A violation where a water system failed to monitor and report the initial lead and copper TAP samples (this violation type is no longer applicable for most water systems and now only applies to new water systems or systems that were not previously required to conduct lead and copper tap monitoring).   |
| 52               | <b>Follow-Up or Routine Lead and Copper Tap Monitoring &amp; Reporting</b>     | A violation where a water system failed to monitor and report the routine or follow-up lead and copper tap samples.  |

| Violation Number | Monitoring & Reporting Violation Type                            | Description  |
|------------------|--|--|
| 53               | <b>Water Quality Parameter M/R</b>                               | Failed to collect and report routine or follow-up water quality parameter samples.   |
| 3A               | <b>Routine Monitoring (RTCR)</b>                                 | A violation where the water system fails to collect routine samples at the appropriate site or frequency.  |
| 3B               | <b>Additional Routine Monitoring</b>                             | A violation where a water system that is required to conduct monitoring less than monthly (e.g. quarterly, annually, or twice a year) fails to collect at least three routine samples (during the month following one or more TC+ (routine or repeat) sample the month following a TC+ sample results) AND does not meet all the criteria listed in 141.854(j)(1),(2), or (3) and 141.855(f)(1)(2), or (3) to be exempt from additional routine monitoring.    |
| 3C               | <b>TC Samples (triggered by turbidity exceedance) Monitoring</b> | A violation where a water system that uses GWUDI, SW, or GWUDI/SW blended sources and does not practice filtration in compliance with Subparts H, P, T and W fails to collect at least one total coliform sample near the first service connection each day the turbidity level of the source water exceeds 1 NTU, where turbidity is measured as specified in 141.74(b)(2).   |
| 4D               | <b>EC+ Notification Reporting</b>                                | A violation where a water system has an E. coli positive routine or repeat sample and fails to notify the State by the end of the day when the system is notified of the test result, unless the system is notified of the result after the State office is closed and the State does not have either an after-hours phone line or alternative notification procedure, in which case the system must notify the State before the end of the next business day. |
| 4E               | <b>E. coli MCL Reporting</b>                                     | A violation where a water system fails to notify the State by the end of the day when the system incurs an E. coli MCL violation, unless the system learns of the violation after the State office is closed and the   |

| Violation Number | Monitoring & Reporting Violation Type  | Description  |
|------------------|--|--|
|                  |  | State does not have either an after-hours phone line or an alternative notification procedure, in which case the water system must notify the State before the end of the next business day.   |
| 4F               | <b>Level 1 or Level 2 Treatment Technique Violation or Corrective Action Reporting</b> | A violation when a water system fails to notify the State by the end of the day when the system incurs a RTCR Treatment Technique violation for failure to complete the assessment/assessment form or failure to conduct corrective actions as described in 141.859. 141.861(a)(2); or when a system fails to notify the State in accordance with 141.859 when each scheduled corrective action is completed for corrections not completed by the time of submission of the assessment form. 141.861(a)(3) |
| 4G               | <b>Monitoring &amp; Reporting Violation</b>  | A system that fails to submit an initial inventory of service lines to the State no later than October 16, 2024. CFR§141.80(e)(1).   |
| S1/S2            | <b>State Violation – Monitoring &amp; Reporting (Major)</b>                            | A violation for an inorganic, organic, or radiological constituent where compliance is based on routine, repeat, or confirmation samples.  |
| SP               | <b>POU/POE M&amp;R</b>   | POU/POE monitoring and reporting failure. This is a failure to properly implement POU/POE and is considered a violation of a variance/exemption granted by the State.  |
| RR               | <b>State Reporting Requirement Violation</b>   | Water system fails to report drought information pursuant to drought order.  |

- **Step 2:** Determine if identified violations have a count of 3 or more and at least one of them has an open EA that is greater than 15 months.
  - These systems meet the failing criteria and are added to the Failing list.
- **Step 3:** A system will no longer meet the Monitoring & Reporting Violation Failing criteria once:

- SOX Enforcement Actions associated with all open Monitoring & Reporting violations, greater than 15 months, have been entered into SDWIS.

## Source Capacity and Water Outage Violations

California Waterworks Standards require public water systems to always have the capacity to meet the system's maximum day demand and peak hourly demand both in the system as a whole and in each individual pressure zone as determined pursuant to California Code of Regulations Title 22 Division 4 Chapter 16.12 The State Water Board developed new source capacity violation codes in 2021 to better track and identify water systems failing to meet source capacity standards. Historically, the State Water Board has responded to source capacity violations with targeted citations, curtailment orders, and service connection moratoriums.

New source capacity and water outage violations include:

- Failure to maintain adequate source capacity (may include curtailment order and/or service connection moratorium).
- Failure to maintain adequate pressure leading to a water outage.
- Failure to complete a required source capacity planning study.

### Failing Criteria

- At least one Source Capacity Violation with an Open Enforcement Action.

### Methodology

- **Step 1:** Determine which systems have incurred a Source Capacity Violation in the SDWIS database.

**Table 8: Source Capacity and Water Shortage Violations**

| SDWIS Analyte Data Field Code | Violation Type Code   | Description  |
|-------------------------------|---|--|
| C277                          | <b>Violation of a Waterworks Standard - CCR §64554 – SRC CAPACITY</b> | Water system fails to have adequate source capacity.                     |
| C278                          | <b>Violation of a Waterworks Standard - CCR §64554 – SRC</b>          | Water system fails to have adequate source capacity due to curtailments. |

| SDWIS Analyte Data Field Code | Violation Type Code   | Description   |
|-------------------------------|---|---|
|                               | <b>CAPACITY (CURTAILMENT)</b>   |   |
| C279                          | <b>Violation of a Waterworks Standard - CCR §64602 – WATER OUTAGE (DROUGHT)</b> | Water system fails to have adequate pressure, leading to outage caused by drought.      |
| C295                          | <b>Violation of a Waterworks Standard - CCR §64602 – WATER OUTAGE (OTHER)</b>   | Water system fails to have adequate pressure, leading to outage not related to drought. |

- **Step 2:** Determine which systems have an Enforcement Action associated with those Violations.
- **Step 3:** Determine which systems do not have a SOX (State Compliance Achieved) Enforcement Action associated with the Enforcement Action. A SOX Enforcement Action indicates when the system has returned to compliance or met the obligations of the Enforcement Action.
  - These systems meet the failing criteria and are added to the Failing list.
- **Step 4:** A system will no longer meet the Source Capacity or Water Outage Violation Failing criteria once:
  - SOX Enforcement Actions associated with the Source Capacity or Water Outage Violations have been entered into SDWIS.