

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2020-0036**

ADOPTING REVISED DETECTION LIMITS FOR PURPOSES OF REPORTING (DLR)
FOR PERCHLORATE OF 0.002 mg/L AND 0.001 mg/L

WHEREAS:

1. All public water systems, as defined in Health and Safety Code (HSC) section 116275, are subject to regulations adopted by the State Water Resources Control Board (State Water Board) under the California Safe Drinking Water Act (HSC, division. 104, part. 12, chapter 4, § 116270 *et seq.*);
2. The State Water Board is responsible for adopting primary drinking water standards, which include maximum contaminant levels (MCLs) and associated monitoring and reporting requirements;
3. Health and Safety Code section 116365 requires the State Water Board to set MCLs as close to the Office of Environmental Health Hazard Assessment (OEHHA)-published public health goal (PHG) as is technologically and economically feasible, placing primary emphasis on the protection of public health;
4. In 2014, pursuant to HSC section 116760.43, the State Water Board adopted a Drinking Water State Revolving Fund policy handbook and repealed the Safe Drinking Water Project Funding regulations in Title 22, Division 4, Chapter 12, including definitions for “Possible Contaminating Activity” and “Source Water Assessment”;
5. In 2015, OEHHA revised the perchlorate PHG for perchlorate from 0.006 mg/L to 0.001 mg/L based on inhibition of iodide uptake into the thyroid gland;
6. California’s current perchlorate MCL and detection limit for purposes of reporting (DLR) are 0.006 mg/L and 0.004 mg/L, respectively;
7. Evaluation of potential additional public health protection and technological and economic feasibility of reducing the perchlorate MCL is limited by the current DLR. Because public water systems are not required to quantify and report perchlorate levels at concentrations below the DLR, there is insufficient data on perchlorate occurrence below 0.004 mg/L;
8. On July 5, 2017, the State Water Board adopted [Resolution No. 2017-0041](#) directing staff to proceed with a regulatory revision of the perchlorate DLR to gather information to support revision of the perchlorate MCL, if appropriate;

9. On March 6, 2020, the State Water Board published a notice of proposed rulemaking pursuant to the requirements of the California Administrative Procedure Act (APA), proposing to lower the perchlorate DLR to 0.002 mg/L and to reinstate definitions of “Possible Contaminating Activity” and “Source Water Assessment”, thereby initiating the required 45-day public comment period, which closed on May 1, 2020;
10. On April 28, 2020, State Water Board staff held a public hearing. The purpose and intent of the public comment period and public hearing were to receive oral and written comments from the public on the proposed regulations in accordance with the APA;
11. On July 20, 2020, an additional 15-day comment period was provided to allow the public to comment on changes to the proposed text of the regulations, modifying the proposed regulations to automatically further lower the perchlorate DLR from 0.002 mg/L to 0.001 mg/L on January 1, 2024. This comment period was extended until August 18, 2020;
12. The State Water Board is tasked with adopting drinking water regulations and recycled water regulations associated with the protection of public health. These regulations include primary drinking water standards (*e.g.*, maximum contaminant levels (MCLs) or treatment technologies), monitoring and reporting requirements for drinking water quality data, and any other standards related to providing safe drinking water (*e.g.*, operator requirements, laboratory accreditation standards, design standards, pipe separation standards, *etc.*);
13. Following the conclusion of the public comment periods on August 18, 2020, State Water Board staff compiled, reviewed, and prepared draft responses to every comment received;
14. Based on staff evaluation, none of the public comments received resulted in additional modifications to the proposed regulations;
15. Final responses to all comments that were received during the public comment periods will be prepared and contained within the Final Statement of Reasons and submitted to the Office of Administrative Law (OAL) as part of the rulemaking record; and
16. All elements of the regulatory package are posted on the program webpage at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/perchlorate2.html.

THEREFORE BE IT RESOLVED THAT:

The State Water Board

1. Adopts the proposed regulations for a perchlorate DLR of 0.002 mg/L, lowering to 0.001 mg/L on January 1, 2024, and reinstatement of the definitions of “Possible Contaminating Activity” and “Source Water Assessment”, which will make modifications to California Code of Regulations, Title 22, sections 64400.95, 64401.57, 64432, 64443, and 64554, as appended to this Resolution;
2. Determines that the adoption of the regulations is a project that is categorically exempt from the California Environmental Quality Act (CEQA) under exemptions allowed pursuant to Public Resources Code section 15061(b)(3), and directs the State Water Board staff to prepare and submit to the State Clearinghouse a Notice of Exemption reflecting this determination;
3. Directs the Executive Director to sign the Form 400 and submit the adopted regulations to the Office of Administrative Law for filing with the Secretary of State; and
4. Authorizes the Executive Director or her delegee to make, prior to OAL filing the regulations with the Secretary of State, any non-substantive corrections to the language of the regulations or supporting documentation deemed necessary for clarity or consistency.

CERTIFICATION


The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 6, 2020.

AYE: Chair E. Joaquin Esquivel
Board Member Tam M. Doduc
Board Member Sean Maguire
Board Member Laurel Firestone

NAY: None

ABSENT: Vice Chair Dorene D’Adamo

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

**TITLE 22, CALIFORNIA CODE OF REGULATIONS
DIVISION 4, CHAPTER 15, ARTICLE 1**

(1) Adopt Section 64400.95 to read as follows:

§64400.95. Possible Contaminating Activity (PCA).

“Possible contaminating activity (PCA)” means a human activity that is an actual or potential origin of contamination for a drinking water source and includes sources of both microbiological and chemical contaminants that could have adverse effects upon human health.

NOTE: Authority cited: Sections 116271, 116275 and 116350, Health and Safety Code. Reference: Sections 116271, 116275 and 116350, Health and Safety Code.

(2) Adopt Section 64401.57 to read as follows:

§64401.57. Source Water Assessment.

“Source water assessment” means an evaluation of a drinking water source that includes delineation of the boundaries of the source area, identification of PCAs within the delineated area, a determination of the PCAs to which the source is most vulnerable, and a summary of the vulnerability of the source to contamination.

NOTE: Authority cited: Sections 116271, 116275 and 116350, Health and Safety Code. Reference: Sections 116271, 116275 and 116350, Health and Safety Code.

**TITLE 22, CALIFORNIA CODE OF REGULATIONS
DIVISION 4, CHAPTER 15, ARTICLE 5**

Amend Subsection 64443 (b) to read as follows:

- (b) Each system designated by the State Board as vulnerable to contamination by nuclear facilities and/or a determination of vulnerability by a Ssource ~~W~~water Assessment, as defined in section ~~63000.84~~ 64401.57, shall monitor to determine compliance with the MCLs in ~~Table~~ Table 64443, as follows:

Note: Authority cited: Sections 116271, 116325, 116350 and 116375, Health and Safety Code. Reference: Sections 116275, 116365 and 116385, Health and Safety Code; and Section 141.66(d)(2), Title 40, Code of Federal Regulations.

**TITLE 22, CALIFORNIA CODE OF REGULATIONS
DIVISION 4, CHAPTER 16, ARTICLE 2**

Amend Subparagraph 64554 (g)(1)(E) to read as follows:

(g) No change to text

(1) No change to text

(A) No change to text

(B) No Change to text

(C) No Change to text

(D) No Change to text

(E) A description of the health risks of contaminants identified in a Source Water Assessment, as defined in section 63000.84 64401.57 of Title 22, and the likelihood of such contaminants being present in the well's discharge;

Note: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code.
Reference: Sections 116275, 116375, 116540 and 116555, Health and Safety Code.

**TITLE 22, CALIFORNIA CODE OF REGULATIONS
DIVISION 4, CHAPTER 16, ARTICLE 3**

Amend Paragraph 64560 (a)(1) to read as follows:

(a) No change to text

(1) No change to text

(A) A source water assessment, as defined in Section 63000.84 64401.57 for the proposed site;

Note: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code.
Reference: Sections 116275, 116375, 116530 and 116535, Health and Safety Code.

**TITLE 22, CALIFORNIA CODE OF REGULATIONS
 DIVISION 4, CHAPTER 15, ARTICLE 5.5**

Amend Table 64432-A to read as follows:

**Table 64432-A
 Detection Limits for Purposes of Reporting (DLRs) for Regulated
 Inorganic Chemicals**

<i>Chemical</i>	<i>Detection Limit for Purposes of Reporting (DLR) (mg/L)</i>
Aluminum	0.05
Antimony	0.006
Arsenic	0.002
Asbestos	0.2 MFL>10um*
Barium	0.1
Beryllium	0.001
Cadmium	0.001
Chromium	0.01
Cyanide	0.1
Fluoride	0.1
Mercury	0.001
Nickel	0.01
Nitrate (as nitrogen)	0.4
Nitrite (as nitrogen)	0.4
Perchlorate	0.004 0.002 <u>0.001 (Effective January 1, 2024)</u>
Selenium	0.005
Thallium	0.001

Note: Authority cited: Sections 116271, 116275, 116293(b), 116350 and 116375, Health and Safety Code. Reference: Sections 116275 and 116385, Health and Safety Code.