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State Water Resources Control Board

**REVISED**  
**NOTICE OF PROPOSED RULEMAKING**

**TITLE 22. Social Security**  
**DIVISION 4. Environmental Health**  
**CHAPTER 15. Domestic Water Quality and Monitoring Regulations**

**SUBJECT: PERCHLORATE DETECTION LIMIT FOR PURPOSES OF REPORTING  
(DLR) (SBDDW-20-001)  
(SBDDW-20-001)**

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*Video and Teleconference Meeting During COVID-19 Emergency: As a result of the COVID-19 emergency and the Governor's Executive Orders [N-29-20](#) and [N-33-20](#) to protect public health by limiting public gatherings and requiring social distancing, this hearing will occur solely via remote presence.*

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**NOTICE IS HEREBY GIVEN** that the State Water Resources Control Board (State Water Board) will conduct a public hearing during which time any interested person or such person's duly authorized representative may present statements, arguments, or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

**NOTICE OF PUBLIC HEARING TO CONSIDER A REVISION TO THE DETECTION LIMIT FOR PURPOSES OF REPORTING (DLR) FOR PERCHLORATE**  
(Gov. Code, §11346.5(a)(1))

The State Water Board will conduct an Administrative Procedure Act (APA) public hearing at the time and place described below. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice. The public hearing will begin with a staff presentation summarizing the proposed regulations, followed by an opportunity for public comment. During the comment period, the public will be allowed three minutes to provide oral comments, unless additional time is approved.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

DATE: **April 28, 2020**

TIME: **9:30 a.m.**

**Video and Teleconference Only**  
**No Physical Meeting Location**

~~PLACE: California Environmental Protection Agency  
State Water Resources Control Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, CA 95814~~

For those who only wish to watch the hearing, the customary webcast remains available at <https://video.calepa.ca.gov/> and should be used UNLESS you intend to comment.

For those who wish to make oral comments, additional information about participating telephonically or via the remote meeting solution is available here: [https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/Regulations.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Regulations.html)

While a quorum of the State Water Board may be present, this hearing is for the public to provide comments in accordance with the APA. The Board will not take formal action. Final regulations are expected to be adopted by the Board later this year, after consideration of all written and oral comments.

Additional information regarding State Water Board meetings, hearings, and workshops is available on the Board's Internet web page at [Board Meeting Information](https://www.waterboards.ca.gov/board_info/calendar/) [https://www.waterboards.ca.gov/board\\_info/calendar/](https://www.waterboards.ca.gov/board_info/calendar/).

**Special Accommodation Request**

Consistent with California Government Code section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; or
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5600 as soon as possible, but no later than 10 business days before the scheduled State Water Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia
- Documentos disponibles en un formato alternativo u otro idioma
- Una acomodación razonable relacionada con una incapacidad

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 341-5600 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

### **WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS**

(Gov. Code, §11346.4(a); §11346.5(a)(15))

Any interested person, or their representative, may submit written comments relevant to the proposed regulatory action to the Clerk to the State Water Board. Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Clerk to the State Water Board by **12:00 p.m. noon, May 1, 2020**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov). The State Water Board requests but does not require that email transmission of comments, particularly those with attachments, contain the regulation package identifier "SBDDW-20-001" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 341-5620. The State Water Board requests but does not require that faxed comments contain the subject line "SBDDW-20-001";
3. By mail to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, P.O. Box 997377, MS 7400, Sacramento, CA 95899-7377; or
4. Hand-delivered to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, 1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814.

The State Water Board requests but does not require that written comments sent by mail or hand-delivered be submitted in triplicate.

The State Water Board requests but does not require that, if reports or articles in excess of 25 pages are submitted in conjunction with the comments, the commentator provide a summary of the report or article and describe the reason for which the report or article is being submitted or is relevant to the proposed regulation.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the State Water Board to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

Please note that under the California Public Records Act (Gov. Code, §6250 *et seq.*), your written and oral comments, attachments, and associated contact information (*e.g.*, your address, phone, email, *etc.*) become part of the public record and can be released to the public upon request.

## **AUTHORITY AND REFERENCE**

(Gov. Code, §11345.5(a)(2); CCR Title 1, Div 1, Ch. 1, §14)

The State Water Board proposes to adopt this regulation under the authority granted by Health and Safety Code (HSC) sections 116271, 116275, 116293(b), 116325, 116350, and 116375. It is implementing, interpreting, or making more specific HSC sections 116271, 116275, 116350, 116365, 116375, 116385, 116530, 116535, 116540, and 116555.

## **INFORMATIVE DIGEST**

(Gov. Code, §11346.5(a)(3))

### Existing Laws and Regulations

All public water systems (PWS), as defined in HSC section 116275, are subject to regulations adopted by the United States Environmental Protection Agency (U.S. EPA) under the Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300f *et seq.*), as well as by the State Water Board under the California Safe Drinking Water Act (HSC, Div. 104, Pt. 12, Ch. 4, §116270 *et seq.*). California has been granted primary enforcement responsibility (“primacy”) by U.S. EPA for PWS in California. California has no authority to enforce federal regulations, but only state regulations. Federal laws and regulations require that California, in order to receive and maintain primacy, promulgate regulations that are no less stringent than the federal regulations.

Pursuant to federal primacy requirements and HSC sections 116271, 116275, 116293(b), 116350, 116375, and 116385, the State Water Board has the responsibility and authority to adopt the subject regulations, that include regulations for water quality monitoring frequencies.

California requires community water systems (CWS) and nontransient-noncommunity (NTNC) water systems to sample their drinking water sources and have the samples analyzed for inorganic chemicals to comply with drinking water standards. The perchlorate monitoring requirements are affected by whether there are detections at or below the detection limit for purposes of reporting (DLR). The presence in a source of certain chemicals at or above the DLR requires a PWS to monitor quarterly.

HSC section 116365 imposes requirements on the State Water Board for adoption of primary drinking water standards for the protection of public health. One of those requirements is that the State Water Board adopt a maximum contaminant level (MCL) as close to the contaminant’s public health goal (PHG) as is technologically and economically feasible at the time of adoption, while placing primary emphasis on protection of public health, and to review those MCLs every five years and amend any standard if changes in technology or treatment techniques have occurred that permit a materially greater protection of public health or attainment of the PHG, or there is new scientific evidence that the contaminant may present a materially different risk to public health than was previously determined. PHGs are established by the California Environmental Protection Agency’s (CalEPA) Office of Environmental Health Hazard Assessment (OEHHA).

California Code of Regulations, title 22, sections 64443(b), 64554 (g)(1)(E), and 64560(a)(1) currently refer to the terms or section numbers for “Possible Contaminating Activity” and “Source Water Assessment”.

### Effect of Proposed Rulemaking

In February 2015, OEHHA revised the PHG for perchlorate from 0.006 mg/L to 0.001 mg/L. Because of this, the State Water Board is proposing to reduce the DLR from 0.004 to 0.002 mg/L. Data gathered from the monitoring using the lower DLR will allow for improved ability to evaluate the technological and economic feasibility of water treatment to reduce perchlorate levels to concentrations less than the current DLR. The State Water Board could determine whether, pursuant to HSC subsection 116365(g), it is possible to reduce the MCL to a concentration closer to the PHG.

The State Water Board is also proposing to re-adopt definitions for the terms “Possible Contaminating Activity” and “Source Water Assessment”.

### Comparable Federal Statute and Regulations

There are no federal regulations or statutes that address the subject of perchlorate in drinking water. The federal Safe Drinking Water Act imposes requirements on each state exercising primary enforcement responsibility (“primacy”) for public water systems and having an approved source water assessment program. Each state’s source water assessment program is adapted to that state’s needs. While U.S. EPA provides guidance, no existing federal regulations or statute provide comparable definitions.

## **POLICY STATEMENT OVERVIEW** (Gov. Code, §11346.5(a)(3))

### Problem Statement

In 2015, OEHHA revised the perchlorate PHG from 0.006 mg/L to 0.001 mg/L. Consistent with HSC subsection 116365(g), this revision was considered in the State Water Board’s 2016 review of the perchlorate MCL. While analytical methods are available to report data at concentrations lower than the current 0.004 mg/L DLR, many water systems and laboratories quantify reported concentrations only as low as the DLR. The lack of perchlorate occurrence data at concentrations below the current DLR hinders the State Water Board’s ability to evaluate whether technology achieves a materially greater protection of public health or attainment of the PHG than was previously determined, and the economic feasibility of lowering the MCL. The State Water Board, therefore, proposes to lower the perchlorate DLR from 0.004 mg/L to 0.002 mg/L to obtain that occurrence data.

California Code of Regulations, title 22, sections 64443(b), 64554 (g)(1)(E), and 64560(a)(1) currently refer to the terms or section numbers for “Possible Contaminating Activity” and “Source Water Assessment”. The definitions for these still needed terms were repealed by a previous regulatory action.

### Objectives (Goals)

Broad objectives of this proposed regulatory action are to:

- Adopt a DLR for perchlorate of 0.002 mg/L to protect public health and maintain consistency with statutory requirements.
- Include definitions for the terms “Possible Contaminating Activity” and “Source Water Assessment”, which were previously contained in Chapter 12 (repealed), but are still needed for the regulations governing drinking water in Title 22.

### Benefits

Anticipated benefits from this proposed regulatory action are to:

- Evaluate performance of existing treatment to levels at least as low as 0.002 mg/L.
- Determine perchlorate occurrence in drinking water sources at or below 0.002 mg/L.
- Identify additional public health protection.
- Gather data to be able to determine the technical and economic feasibility of revising the current MCL.
- Clarify references to “Possible Contaminating Activity” and “Source Water Assessment” in existing regulations.

## **EVALUATION AS TO WHETHER THE PROPOSED REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS (Gov. Code, §11346.5(a)(3)(D))**

The State Water Board evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the State Water Board’s existing general regulations and any regulations specific to perchlorate for drinking water. An internet search of other state agency regulations was also performed. The State Water Board determined that this proposal is not inconsistent or incompatible with other existing state regulations.

## **SUMMARY OF PROPOSAL**

### Perchlorate DLR:

The State Water Board proposes to amend section 64432 as follows:

- In Table 64432-A, replace the current perchlorate DLR of 0.004 mg/L with a revised perchlorate DLR of 0.002 mg/L.

The primary purpose of the proposed regulations is to adopt a revised DLR of 0.002 mg/L for perchlorate to allow determination of perchlorate occurrence in drinking water sources at concentrations below the current DLR of 0.004 mg/L. Revising the DLR is consistent with the requirements of HSC section 116375 and the supporting regulations.

Referenced definitions from Chapter 12 (repealed):

The State Water Board proposes to re-adopt, and revise references to, the following definitions deleted in the repeal of California Code of Regulations (CCR), Title 22, Division 4, Chapter 12, Article 1:

- Add §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.
- Add §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.
- Replace all citations of §63000.84 with §64401.57

The primary reason for reincluding these two definitions, which were repealed along with the rest of Chapter 12, in the proposed regulatory text is because there are still sections in Title 22 that currently refer to these two definitions and their previous section numbers. The proposed text will provide clarity in the regulations where there is reference to the terms “Possible Contaminating Activity” and “Source Water Assessment”.

**FORMS OR DOCUMENTS INCORPORATED BY REFERENCE**

(CCR Title 1, Div. 1, Ch. 1, §20(c)(3))—Not Applicable

**MANDATED BY FEDERAL LAW OR REGULATIONS** (Gov. Code, §11346.2(c))

Adoption of this regulation is not mandated by federal law or regulations.

**OTHER STATUTORY REQUIREMENTS** (Gov. Code, §11346.5(a)(4))

California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires that state agencies consider the potentially significant environmental impacts of their discretionary actions, which include the development of regulations. Consistent with CCR, Title 14, subparagraph 15061(b)(3), the State Water Board has prepared a Notice of Exemption, concluding that the proposed regulations would certainly not have a significant adverse effect on the environment.

Scientific Peer Review

HSC subsection 57004(b) requires that the scientific portions of any regulation proposed by the California Environmental Protection Agency (CalEPA), or any board, department or office within CalEPA, be submitted to an external scientific peer review entity for evaluation. “Scientific basis” or “scientific portion” is defined as “those

foundations of a rule that are premised upon, or derived from empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.” Where there is no underlying scientific basis for the proposed rule, no peer review is required. Similarly, where the underlying scientific basis for the proposed rule has already been peer reviewed, additional peer review is not required. CalEPA’s *Unified California Environmental Protection Agency Policy and Guiding Principles for External Scientific Peer Review*, March 13, 1998 (CalEPA Guiding Principles) recognizes that external scientific peer review processes are not warranted where there are no underlying scientific bases at issue, or where the underlying scientific basis has already undergone review.

- Perchlorate DLR

The proposed regulation to lower the perchlorate DLR is a policy decision primarily based on the current number of commercial and municipal laboratories doing business with California public water systems (*i.e.*, laboratory capacity). Laboratory capacity includes the ability to provide a sufficient number of services, at a specified level of service, within a period of time already specified in regulation. This capacity is critical to enable the quantification of perchlorate to a specified level without otherwise impairing PWS compliance with existing monitoring and reporting regulations.

U.S. EPA validated analytical drinking water methods were considered in the development of the proposed regulation. The U.S. EPA methods currently in use by California PWS [*i.e.*, EPA Methods 314.0 (1999), 314.1 (2005), 331.0 (2005), and 332.0 (2005)] are federally approved drinking water methods subjected to a formal, multi-laboratory validation process. These methods were appropriately reviewed by scientific peers during the multi-laboratory validation and approval process required for publication as an EPA method. In addition, the laboratories currently providing these analytical services are accredited by California’s Environmental Laboratory Accreditation Program. There is, therefore, no underlying scientific basis for the regulations that needs to undergo peer review as the decision is based upon how many laboratories can do the analysis using methods that have already undergone peer review.

- Definitions

The proposed re-insertions of definitions for the terms “Possible Contaminating Activity” and “Source Water Assessment” have an administrative, not a scientific, basis. Reinserting these terms is necessary for the regulations to be internally consistent.

### California Water Code Section 106.3

California Water Code section 106.3 states that it is the policy of the state that every human has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes. In preparing the proposed regulations, the State Water Board determined the proposed regulations are consistent with this statewide policy. Even though the proposed regulations may result in increased costs to those that are served by PWS, that potential cost is outweighed by

the benefits of knowing the potential human exposure to perchlorate in drinking water supplies and whether treatment may be needed, and in having an adequate data set to evaluate the technological and economic feasibility of lowering the perchlorate MCL.

#### Pre-Notice Meeting with Affected Parties

Government Code subsection 11346.45(a) requires that prior to publication of the notice of proposed action, the agency proposing the regulation must involve parties who would be subject to the proposed regulations in public discussions, when the proposed regulations involve complex proposals or a large number of proposals that cannot be easily reviewed during the comment period. The regulations proposed here are neither complex nor involve large numbers of proposals that could not be easily reviewed during the comment period. Nonetheless, the State Water Board did provide PWS, Environmental Laboratory Technical Advisory Committee (ELTAC) members, and water consumers opportunities to be involved in public discussions about the proposed regulations, including the July 5, 2017 State Water Board meeting; the July 13, 2017 ELTAC meeting; the December 6, 2017 ELTAC meeting; the February 6, 2018 State Water Board meeting; the March 28, 2018 ELTAC meeting; the March 5, 2019 State Water Board meeting; and the April 17, 2019 ELTAC meeting. In addition, staff of the State Water Board's Division of Drinking Water frequently provide regulatory updates to PWS, including the status of the perchlorate DLR revision.

#### **LOCAL MANDATE** (Gov. Code, §11346.5(a)(5))

Pursuant to Government Code paragraph 11346.5(a)(5), the State Water Board has determined the proposed regulatory action would not impose a mandate on a local agency or school district that requires reimbursement pursuant to section 17500 *et seq.*

Local agencies and school districts currently incur costs in their operation of PWS. The costs imposed by these regulations are not the result of a "new program or higher level of service" within the meaning of Article XIII B, section 6 of the California Constitution because they apply generally to all individuals and entities that operate PWS in California, and do not impose unique requirements on local governments. (*County of Los Angeles v. State of California, et al.*, 43 Cal. App. 3d 46 (1987)). In addition, the publicly owned systems can pass on the costs in increased service charges, fees or assessments. Therefore, no state reimbursement of these costs is required. Local regulatory agencies also may incur additional costs for their responsibility to enforce state regulations related to small PWS (fewer than 200 service connections) that they regulate. However, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small PWS (HSC, §101325). Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required (Gov. Code, §17556(d)).

#### **FISCAL IMPACT ESTIMATE** (Gov. Code, §11346.5(a)(6))

(as detailed in the Cost Estimating Methodology in the Initial Statement of Reasons)

#### Estimated Fiscal Impact on Local Agency or School District

\$836,640 annually, which is not reimbursable by the State pursuant to Article XIII B, section 6 of the California Constitution.

Estimated Fiscal Impact on State Government

\$20,608 annually, which is anticipated to be absorbable by State agencies within their existing budgets. The State Water Board estimates that there will be no change to the Drinking Water Program's Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under HSC 116565, 116577, 116585, and 116590.

Estimated Fiscal Impact on Federal Funding of State Programs

None.

Other Non-discretionary Cost or Savings Imposed on Local Agencies

None.

Cost to Any Local Agency or School District which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630

None.

**HOUSING COSTS** (Gov. Code, §11346.5(a)(12))

The State Water Board has determined that the regulations will have no impact on housing costs.

**NO SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES IN CALIFORNIA**

(Gov. Code, §11346.5(a)(8); 11346.5(a)(10))

The proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of businesses to compete with businesses in other states.

The proposed regulations directly impact PWS. PWS are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, paragraph 11342.610(b)(8), are specifically excluded from the definition of "small businesses". However, the State Water Board recognizes that a small number of the identified PWS likely provide water solely to businesses, such as mobile home parks, restaurants, and food processors, and that PWS often provide water to businesses. The State Water Board does not track or have a way of estimating the total number of businesses contained within every PWS. The types of businesses expected to be indirectly impacted consist of every type of business that requires potable drinking water for their customers, employees, or processes/operations.

No reporting is required of businesses, but reporting of monitoring results would continue to be required of the PWS, and such reporting is necessary for the health, safety, or welfare of the people of the state to ensure compliance. Those costs for reporting were considered as part of the monitoring costs. The State Water Board recognizes that monitoring and reporting costs would likely be passed on to a PWS's customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation. Such indirect impacts will, however, be insignificant, totaling approximately \$1.6 million statewide. This corresponds to

approximately \$224 annually per water system, and \$9 annually per water system customer.

## **RESULTS OF ECONOMIC IMPACT ASSESSMENT**

(Gov. Code, §11346.5(a)(10))

The State Water Board has determined that the economic impact of the proposed regulations would not exceed \$50 million in a 12-month period and that the regulations would not therefore be considered a Major Regulation as defined by CCR, Title 1, Division 3, Chapter 1, subsection 2000(g).

Based on the State Water Board's Economic Impact Assessment (described in the Initial Statement of Reasons, with additional findings provided in Form STD 399 and its attachment), the proposed regulation is not expected to

- (A) create or eliminate jobs,
- (B) create new businesses or eliminate existing businesses, or
- (C) expand businesses currently doing business within the state of California.

A lower perchlorate DLR would allow collection of water quality data at lower concentrations, allowing determination of the feasibility of lowering the maximum contaminant level in drinking water, thereby facilitating increased protection of public health for California residents.

## **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

(Gov. Code, §11346.5(a)(9))

The State Water Board is not aware of any direct cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Indirect cost impacts are estimated within Standard Form 399. For the 2,346 PWS potentially subject to increased monitoring under the proposed regulation, the annual cost is estimated at \$224. For individuals served by one of these 2,346 PWS, the cost is estimated at \$9 annually.

## **REPORTING REQUIREMENTS** (Gov. Code, §11346.5(a)(11); §11346.3(d))

Government Code subsection 11346.36(d) requires that any administrative regulation adopted on or after January 1, 1993 that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for health, safety, or welfare of the people of the state that the regulation apply to businesses. The State Water Board has determined that the proposed regulations would not require reports from businesses to the extent that PWS are not considered businesses pursuant to Government Code paragraph 11342.610(b)(8). To the extent PWS may be considered businesses, reporting of monitoring of drinking water sources for perchlorate is necessary for health, safety, or welfare of the people of the state.

## **SMALL BUSINESSES** (1 CCR, §4(a) and (b))

The proposed regulation directly impacts public drinking water systems. PWS are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, paragraph 11342.610(b)(8), are specifically excluded from the definition of "small businesses". However, the State Water Board recognizes that a small number of

the identified PWS likely provide water solely to businesses and that PWS often provide water to businesses. The State Water Board also recognizes that costs for monitoring would likely be passed on to a water system's customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation.

Similarly, no reporting is required of businesses, but reporting of monitoring results would be required of the PWS, and such reporting is necessary for health, safety, or welfare of the people of the state to. Those costs for reporting were considered as part of the monitoring costs.

The State Water Board does not track or have a way of estimating the total number of businesses contained within every water system. The types of businesses expected to be indirectly impacted consist of every type of business that requires potable drinking water for their customers, employees, or processes/operations.

### **CONSIDERATION OF ALTERNATIVES** (Gov. Code, §11346.5(a)(13))

The State Water Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The State Water Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

The State Water Board considered an alternative proposal to adopt a DLR of 0.001 mg/L, but rejects the alternative because adequate laboratory capacity does not currently exist to test to a DLR of 0.001 mg/L. Technological feasibility is based on technological capability and laboratory service capacity. The State Water Board has found that there are currently not enough laboratories accredited by California's Environmental Laboratory Accreditation Program to perform perchlorate analyses at a DLR lower than 0.002 mg/L.

### **STATE WATER BOARD CONTACT PERSONS** (Gov. Code, §11346.5(a)(14))

Requests for copies of the proposed regulatory text, the Initial Statement of Reasons, subsequent modifications of the proposed regulatory text, if any, or other inquiries concerning the proposed action may be directed to:

Melissa Hall, P.E.  
Senior Water Resource Control Engineer  
State Water Resources Control Board, Division of Drinking Water  
1001 I Street, 17th Floor  
Sacramento, CA 95814  
Telephone: (916) 323-0373  
Electronic mail: [melissa.hall@waterboards.ca.gov](mailto:melissa.hall@waterboards.ca.gov)

In the event Melissa Hall is not available to respond to requests or inquiries, please contact:

Eric Miguelino, M.D.  
Research Scientist IV  
State Water Resources Control Board, Division of Drinking Water  
1001 I Street, 17th Floor  
Sacramento, CA 95814  
Telephone: (916) 449-5556  
Electronic mail: [eric.miguelino@waterboards.ca.gov](mailto:eric.miguelino@waterboards.ca.gov)

**Please identify the action by using the State Water Board regulation package identifier, “SBDDW-20-001: Perchlorate DLR” in any inquiries or written comments.**

**AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE** (Gov. Code, §11346.5(a)(16))

The State Water Board has prepared and has available for public review an Initial Statement of Reasons for the proposed regulations, all the information upon which the proposed regulations are based, the text of the proposed regulations, and all other required forms, statements, and reports. The Regulatory Development Unit, Division of Drinking Water, State Water Resources Control Board, 1001 I Street, 17<sup>th</sup> Floor, Sacramento, CA 95814, will be the location for inspection and copying of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file) throughout the rulemaking process.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT** (Gov. Code, §11346.5(a)(18))

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the State Water Board's Division of Drinking Water Regulatory Development Unit at least 15 days prior to the date on which the State Water Board adopts, amends, or repeals the resulting regulation. The State Water Board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please send requests for copies of any modified regulations to the attention of the Division of Drinking Water, Regulatory Development Unit, at the address indicated above.

**AVAILABILITY OF FINAL STATEMENT OF REASONS**  
(Gov. Code, §11346.5(a)(19))

The State Water Board will prepare a final statement of reasons pursuant to Government Code section 11346.9 after final adoption of the regulations, and when ready will make the final statement of reasons available.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

(Gov Code, §11346.4(a)(6); §11346.5(a)(20))

Materials regarding the action described in this notice (including this public notice, the regulation text, and the Initial Statement of Reasons) are available via the Internet and may be accessed in the links within the announcements section from the Division of Drinking Water's [main perchlorate webpage](#), or directly from the [perchlorate regulation webpage](#).

\_\_\_\_\_  
April 23, 2020  
Date

\_\_\_\_\_  
ORIGINAL SIGNED BY  
Jeanine Townsend  
Clerk to the Board