

UPDATED INFORMATIVE DIGEST

All suppliers of domestic water to the public are subject to regulations adopted by the U.S. Environmental Protection Agency (USEPA) under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) as well as by the California Department of Public Health (Department) under the California Safe Drinking Act (Sections 116270-116751, Health and Safety Code [H&S Code]). California has been granted “primacy” for the enforcement of the Federal Act. In order to receive and maintain primacy, states must promulgate regulations that are no less stringent than the federal regulations.

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, including maximum contaminant levels (MCLs). Primary MCLs are based on health protection, technical feasibility, and costs. The water supplier must notify the Department and the public when a primary MCL has been violated and take appropriate action.

Section 116293(b) of the H&S Code, coupled with section 116365, mandates that the Department adopt a perchlorate MCL as close as possible to the public health goal (PHG) established by the Cal/EPA Office of Environmental Health Hazard Assessment (OEHHA), while considering the cost and technical feasibility of treatment and analysis.

This regulation package proposes the following amendments to Chapter 15, Division 4, Title 22 of the California Code of Regulations.

- Amend Section 64413.1 (Classification of Water Treatment Facilities) to include points for perchlorate treatment when calculating the classification of a treatment facility and to update the radionuclide section references, which changed as a result of the radionuclide regulations adopted in June 2006.
- Amend Section 64431 (Maximum Contaminant Levels – Inorganic Chemicals) to adopt a perchlorate MCL and clarify the wording in subsection (a);
- Amend Section 64432 (Monitoring and Compliance – Inorganic Chemicals) as follows:
 - (a) and (b) to specify which water systems are required to monitor for perchlorate and cite the sections that provide the detailed requirements; and
 - Table 64432-A to adopt perchlorate with its detection limit for purposes of reporting (DLR);
- Revise Article 4 to adopt a new section 64432.3 (Monitoring and Compliance – Perchlorate) to establish the monitoring and compliance determination requirements for perchlorate and provide variances for systems serving less than 10,000 persons that unable to afford compliance;
- Revise Article 4 to adopt a new section 64432.8 (Sampling of Treated Water Sources) to require monthly monitoring of the treated water for sources being treated for compliance with any inorganic MCL;
- Amend Section 64447.2 (Best Available Technologies (BAT) – Inorganic Chemicals) to include perchlorate with its best available technology in Table 64447.2-A and list a new technology that is specifically applicable to perchlorate, i.e., biological fluidized bed reactor;

- Repeal Article 17 and Section 64450 (Unregulated Chemicals – Monitoring), to eliminate obsolete requirements (the deadline for monitoring has passed); and
- Amend Section 64465 (Health Effects Language – Inorganic Chemicals) to adopt health effects language for perchlorate.
- Amend Section 64481 (Typical Origins of Contaminants with MCLs) to adopt the typical origins of perchlorate.

The net effects of the proposed regulations would be as follows:

- Community Water Systems (CWS) and Nontransient-Noncommunity Water Systems (NTNCS) would be required to monitor for, and comply with, an MCL for perchlorate;
- CWS and NTNCS unable to afford treatment to comply with the perchlorate MCL would be able to apply for a variance;
- CWS and NTNCS that treat a drinking water source to comply with an inorganic chemical MCL would be required to monitor the treatment effluent monthly;
- CWS and NTNCS that violate the perchlorate MCL would be required to use specific health effects language for the public notification; and
- Best available technologies would be specified for perchlorate removal.

None of the proposed amendments would affect California's primacy status, because the net effect of these amendments is that the state's regulation would be more stringent than the federal regulation, which is allowed. The USEPA has not yet proposed or adopted an MCL for perchlorate.

References

OEHHA, 2004, Public Health Goal for Perchlorate in Drinking Water, March, Office of Environmental Health Hazard Assessment, California Environmental Protection Agency.