

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2019-0005**

ADOPTING PERMANENT REGULATIONS FOR PUBLIC WATER SYSTEMS' USE OF
POINT-OF-USE AND POINT-OF-ENTRY TREATMENT DEVICES IN TITLE 22,
CALIFORNIA CODE OF REGULATIONS, SECTIONS 64417, 64418, 64418.1, 64418.2,
64418.3, 64418.4, 64418.5, 64418.6, 64418.7, 64418.8, 64419, 64420, 64420.1, 64420.2,
64420.3, 64420.4, 64420.5, 64420.6, 64420.7, and 64420.8

WHEREAS:

1. On October 9, 2015, Assembly Bill No. 434 (AB 434) took effect. AB 434 amended sections 116380 and 116552 of the Health and Safety Code, which pertain to point-of-use (POU) and point-of entry (POE) treatment by public water systems;
2. Pursuant to AB 434, in March 2016 the State Water Resources Control Board (State Water Board) adopted emergency regulations governing the permitted use of POU and POE treatment by public water systems in lieu of centralized treatment. AB 434 stipulated that these emergency regulations would remain in effect until January 1, 2018 or until such time as the State Water Board adopts permanent regulations, whichever was sooner;
3. AB 434 required that the State Water Board adopt permanent regulations for the use of POU and POE treatment by public water systems. These proposed permanent regulations will meet the statutory requirements and intent of AB 434;
4. The proposed regulations will be contained in Title 22, California Code of Regulations, sections 64417, 64418, 64418.1, 64418.2, 64418.3, 64418.4, 64418.5, 64418.6, 64418.7, 64418.8, 64419, 64420, 64420.1, 64420.2, 64420.3, 64420.4, 64420.5, 64420.6, 64420.7, and 64420.8;
5. On October 13, 2017, the State Water Board published a notice of proposed rulemaking pursuant to the requirements of the California Administrative Procedures Act (APA), initiating the mandatory 45-day public comment period, which ran from October 13 through November 30, 2017;
6. State Water Board staff held a public hearing on November 27, 2017. 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;
7. An additional 15-day comment period was provided on January 3, 2018 to allow the public to comment on minor changes to the proposed text of the regulations. This comment period was extended until February 2, 2018. Following adoption by the State Water Board on February 6, 2018 and receipt of Office of Administrative Law (OAL) comments on October 5, 2018, revised regulation text and an addendum to the Initial Statement of Reasons were circulated in a public comment period that ran from November 8 through November 27, 2018;
8. State Water Board staff compiled, reviewed, and prepared draft responses to every comment received;

9. Final responses to all comments that were received during the public comment periods will be prepared and contained in the Final Statement of Reasons, and submitted to the Office of Administrative Law as part of the regulations package; and
10. All elements of the regulatory package, including written and oral comments, are posted on the program webpage at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/regulations/.

THEREFORE BE IT RESOLVED THAT:

The State Water Board

1. Adopts the proposed POU and POE Treatment – Permanent Regulations, which will make modifications to California Code of Regulations, Title 22, sections 64417, 64418, 64418.1, 64418.2, 64418.3, 64418.4, 64418.5, 64418.6, 64418.7, 64418.8, 64419, 64420, 64420.1, 64420.2, 64420.3, 64420.4, 64420.5, 64420.6, 64420.7, and 64420.8, as appended to this Resolution;
2. Determines that the adoption of the proposed regulations is a project that is categorically exempt from the California Environmental Quality Act (CEQA) under exemptions allowed pursuant to Public Resources Code section 21084 and CEQA Guidelines 14 CCR 15301, 15302, 15303, 15308, 15311 and 15330. A Notice of Exemption was filed with the State Clearinghouse on October 11, 2017;
3. Directs the Executive Director to sign the Standard Form 400 and submit the adopted regulations to OAL 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

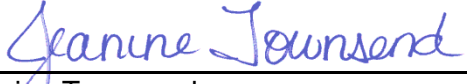
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 22, 2019.

AYE: Board Member Tam M. Doduc
Board Member Dorene D'Adamo
Board Member E. Joaquin Esquivel
Board Member Sean Maguire

NAY: None

ABSENT: Chair Felicia Marcus

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

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

ARTICLE 2.5. Point-of-Use Treatment

Adopt Section 64417 as follows:

§64417. Definitions.

“Point-of-use treatment device” or “POU” means a treatment device applied to a single tap for the purpose of reducing contaminant levels in drinking water at that tap.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64418 as follows:

§64418. General Provisions.

(a) Except for a proposed new community water system that does not have a domestic water supply permit, a public water system that meets the requirements of Health and Safety Code section 116380(a) may be permitted to use POU's in lieu of centralized treatment for the purpose of complying with one or more maximum contaminant levels or action levels in this Title, other than for microbial contaminants, volatile organic chemicals, organic chemicals that pose an inhalation risk, or radon, and as allowed under the state and federal Safe Drinking Water Acts, if:

(1) the public water system meets the requirements of this Article and any applicable statutory requirements;

(2) the public water system has:

(A) applied for funding from any federal, state, or local agency to correct the system's violations, and

(B) demonstrated to the State Board that centralized treatment for achieving compliance is not immediately economically feasible, as defined in section 64418.1;

(3) the public water system has applied for a permit or permit amendment to use POU's. The duration of the permit or permit amendment issued will be in accordance with Health and Safety Code section 116552;

(4) for a community water system, following a public hearing, the State Board determines pursuant to section 64418.6 that there is no substantial community opposition;

(5) the public water system has a State Board-approved:

(A) POU Treatment Strategy, as defined in section 64418.3,

(B) POU Operations and Maintenance Program, as defined in section 64418.4, and

(C) POU Monitoring Program, as defined in section 64418.5; and

(6) the public water system ensures that each building and each dwelling unit connected to the public water system has a POU installed pursuant to this Article.

(b) With State Board approval and without having to meet the requirement of paragraph (a)(6), a public water system may utilize POU's in lieu of centralized treatment for the purpose of reducing contaminant levels, other than microbial contaminants, volatile organic chemicals, or radon, to levels at or below one or more of the maximum contaminant levels or action levels in this Title, in the water it supplies to some or all of the persons it serves, but the public water system will not be deemed in compliance without meeting the requirement of paragraph (a)(6). A public water system's application for a permit to utilize POU's pursuant to this subsection may include a request that one or more of the requirements of this article be amended or eliminated

to address the public water system's specific utilization, and such request may be granted or denied by the State Board.

(c) Funding for centralized treatment is available when funding for centralized treatment, from any source, is received by, or otherwise placed under control of, the public water system.

(d) As used in this article, the estimated cost for both centralized treatment and POU treatment shall be the complete life cycle cost for a similar period of time.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64418.1 as follows:

§64418.1. Immediate Economic Feasibility of Centralized Treatment.

(a) To specifically meet the requirements of subparagraph 64418(a)(2)(B), a community water system, when comparing the costs of centralized treatment to the use of POU treatment, shall submit to the State Board information demonstrating that the:

(1) estimated annual cost of centralized treatment, per household, is more than one percent (1%) of the median household income (MHI) of the customers served by the community water system; and

(2) (A) if the community's annual MHI is equal to or less than the statewide annual MHI, the estimated annual cost of centralized treatment, per household, plus the median annual water bill from the most recent 12 months per household is more than 1.5 percent (1.5%) of the annual MHI of the customers served by the community water system, or

(B) if the community's annual MHI is greater than the statewide annual MHI, the estimated annual cost of centralized treatment, per household, plus the

median annual water bill from the most recent 12 months per household is more than two percent (2%) of the annual MHI of the customers served by the community water system.

(b) A noncommunity water system shall submit to the State Board documents that demonstrate that centralized treatment is not immediately economically feasible.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64418.2 as follows:

§64418.2. POU Requirements.

(a) Each POU must:

(1) be independently certified in accordance with an American National Standard Institute (ANSI) standard that is applicable to the specific type of proposed POU and that adequately addresses a California drinking water standard; or

(2) be approved by the State Board upon determination that the proposed POU unit design, construction, treatment performance, and field or pilot test results can reliably produce water in compliance with California drinking water standards under local expected influent water quality and flow conditions;

(3) be owned, controlled, operated, and maintained by the public water system and/or a person(s) under contract with the public water system, to ensure proper operation, maintenance, monitoring, and compliance with this Article and applicable drinking water standards;

(4) be equipped with a mechanical warning (e.g. alarm, light, etc.) that alerts users when a unit needs maintenance or is no longer operating in a manner that assures the unit is producing effluent meeting state and federal drinking water

standards, unless the device is equipped with an automatic shut-off mechanism that prevents the flow of water under such circumstances; and

(5) be equipped with a totalizing flow meter if:

(A) the POU's treatment efficiency or capacity is volume limited; or

(B) if requested by the State Board following a determination that information about the quantity of water treated by the POU is necessary to assess POU efficiency.

(b) Except as provided in subsection (c), pilot testing shall be performed by the public water system, and/or a person(s) under contract with the public water system, on each proposed type of POU to establish its use limitations and operations and maintenance criteria, as well as verification that it will produce effluent that meets drinking water standards under local expected influent water quality and flow conditions. Pilot testing shall include the following steps:

(1) Prior to performing pilot testing, a pilot testing protocol shall be submitted to the State Board for review. The pilot testing protocol must be adequate to demonstrate that water treated by the POU will meet drinking water standards;

(2) Pilot testing for a POU shall be conducted in the manner and for the time period specified by the most current pilot testing protocol for that POU approved under section 64418.2(b)(1), and shall be conducted for no less than two months; and

(3) After completion of the pilot testing, the public water system shall submit a report to the State Board describing the results and findings of the pilot testing.

(c) The State Board exempt a public water system from the pilot testing requirements in section 64418.2(b), or permit a reduced level of pilot testing required pursuant to subsection (b), if:

(1) the public water system demonstrates to the State Board that the POU's proposed for use have been tested, by the public water system or another person, under equivalent water quality and flow conditions; and

(2) the limitations, criteria, and effluent verification in subsection (b) can be ascertained and have been reported to the State Board.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64418.3 as follows:

§64418.3. POU Treatment Strategy.

(a) Prior to installing POU's, and as part of its permit application to use POU in lieu of centralized treatment, a public water system shall submit to the State Board a POU Treatment Strategy sufficient to reliably reduce levels of the contaminants listed in section 64418(a) and comply with drinking water standards. The POU Treatment Strategy shall include the following:

(1) A description of the compliance issues for which POU's are being proposed to address and how the use of POU's will achieve compliance;

(2) A description of how the public water system will determine the type, number, and location of POU's to ensure a sufficient number of devices are installed for human consumption at each building and each dwelling unit connected to the public water system;

(3) The public water system's authority to require customers to accept POU's in lieu of centralized treatment and to take an action, such as discontinuing service, if a customer fails to accept POU's;

(4) The basis for the POU selection(s);

(5) The qualifications and identification of the person(s) responsible for POU installation, operation, maintenance, and water quality sampling and analyses;

(6) A Customer Education Program that includes information about the POU, how the devices work, required maintenance and monitoring, and the need for the person(s) responsible for the POU, as defined in paragraph (a)(5) of this section, to have access to the device to perform required maintenance and monitoring. The Customer Education Program shall be designed to reach all customers and shall be implemented prior to and following installation of POU's;

(7) The authority, ordinances, and/or access agreements adequate to allow the public water system's representatives access to customers' premises for POU installation, maintenance, and water quality monitoring, as well as the surveys necessary to meet paragraph (a)(2);

(8) Identification of applicable local regulatory requirements;

(9) A Consumer Notification Protocol designed to timely inform consumers, in the appropriate language(s), in the event that an installed POU fails to produce water that meets drinking water standards. The Consumer Notification Protocol shall include:

(A) an example of a notice that includes the requirements of Article 18 of this Title, and

(B) a plan for providing an alternative water supply that meets drinking water standards, consistent with section 64551.100 of this Title, in a quantity sufficient for daily household ingestion needs, to customers served by each installed POU not meeting drinking water standards. An alternative water supply shall be provided according to the following timeline:

1. as soon as possible, but no later than 24 hours following the receipt of results of confirmation samples indicating an MCL exceedance for nitrate, nitrite, nitrate plus nitrite, or perchlorate, or

2. as soon as possible, but no later than 7 days following the receipt of results of confirmation samples indicating an MCL exceedance for contaminants other than nitrate, nitrite, nitrate plus nitrite, or perchlorate;

(10) A Customer Notification Protocol for routine notifications that includes examples of notices, to be provided no less frequently than quarterly, in the appropriate language(s) to inform each customer and consumer:

(A) that only the taps for which POU's are installed provide water meeting drinking water standards, and

(B) regarding the mechanical warning or shut-off mechanism required pursuant to paragraph 64418.2(a)(5), including a telephone number that connects the customer or consumer to water system personnel or recording system that shall be accessible by water system personnel 24-hours a day, seven days a week, for the purpose of providing the customer or consumer a reliable means of notifying personnel when the mechanical warning or shut-off mechanism is activated;

(11) The proposed schedules for:

(A) the distribution of public hearing information pursuant to section 64418.6,

(B) the public hearing required pursuant to section 64418.6,

(C) the distribution to customers of POU acceptance surveys pursuant to section 64418.6,

(D) POU installation, and

(E) the construction of centralized treatment; and

(12) An estimate of the percent of all customers within the public water system's service area who are expected to voluntarily allow installation of POU devices,

as well as a description of how the public water system will address customers who do not.

(b) A public water system shall comply with the most current State Board-approved version of its POU Treatment Strategy at all times.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64418.4 as follows:

§64418.4. POU Operations and Maintenance (O&M) Program.

(a) Prior to installing POU, and as part of its permit application to use POU in lieu of centralized treatment, a public water system shall submit to the State Board a POU Operations and Maintenance Program (O&M Program) sufficient to reliably reduce levels of the contaminants listed in section 64418(a) and comply with drinking water standards. The O&M Program shall include the following:

(1) An installation protocol that, at a minimum, describes locations and assurances that POU, will be accessible for operation and maintenance;

(2) The type and frequency of maintenance, at intervals specified by the manufacturer and determined by pilot testing, whichever is shorter, that ensures POU produce effluent that meets drinking water standards;

(3) The number and type of auxiliary POU and parts necessary to ensure continuous effective treatment;

(4) Replacement schedules for critical components and POU necessary to ensure continuous effective treatment;

(5) The qualifications and identification of the person(s) responsible for POU installation, operation, and maintenance; and

(6) POU waste-handling and disposal procedures sufficient to ensure that wastes generated by the POU and the POU itself are properly and safely disposed of in accordance with federal, state and local requirements.

(b) To ensure a POU is properly operating and has not been bypassed, POU's shall be inspected by the public water system no less often than every twelve months and when a POU's effluent is monitored pursuant to section 64418.5.

(c) Based on the on-going operation and maintenance of installed POU's, a public water system shall revise its POU O&M Program as necessary to ensure continuous effective treatment and that POU's produce effluent that meets drinking water standards. Revised POU O&M Programs shall be submitted to the State Board for review and may not be implemented without State Board approval, confirming that the revised POU O&M Program meets the requirements of this section.

(d) A public water system shall maintain a copy of, and at all times implement the most current State Board-approved version of its POU O&M Program.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64418.5 as follows:

§64418.5. POU Monitoring Program.

(a) Prior to installing POU's, and as part of its permit application to use POU in lieu of centralized treatment, a public water system shall submit to the State Board a POU Monitoring Program sufficient to ensure that water treated by the proposed POU

consistently meet drinking water standards. The POU Monitoring Program shall include the following:

(1) source water monitoring – quarterly, with samples collected during the same month (first, second, or third) of each calendar quarter;

(2) POU effluent – initially, with samples collected as soon as possible but no later than 72 hours after a device is installed; and

(3) POU effluent – on-going following the monitoring in paragraph (a)(2), annually, with one twelfth of all units sampled monthly on a rotating basis. After completion of one year of monitoring, a public water system may alternatively monitor one quarter of all units each calendar quarter provided that monitoring results do not exceed 75 percent (75%) of a contaminant’s MCL, and the water system submits a revised monitoring plan to the State Board. Water systems shall resume monthly monitoring if results exceed 75 percent (75%) of a contaminant’s MCL.

(b) For a contaminant other than nitrate, nitrite, nitrate plus nitrite, or perchlorate, after no less than one year of monitoring conducted pursuant to subsection (a), a public water system may reduce the number of POU units monitored to no less than one third of all installed units per year such that all installed units are monitored no less frequently than once every three years, if all the results of the on-going monitoring conducted pursuant to paragraph (a)(3) do not exceed 75 percent (75%) of a contaminant’s MCL, and the public water system submits a revised monitoring plan to the State Board.

(c) In accordance with subsections 64432.8(b) and 64445.2(b) of this Title, the State Board may require additional monitoring for the contaminant of concern or other contaminants, including microbial contaminants, if monitoring results indicate a potential health risk associated with the contaminant, POU technology, or a public water system’s compliance with this Article.

(d) The public water system shall revise its POU Monitoring Program as necessary to ensure continuous effective treatment based on the on-going operation

and maintenance of installed POU or additional monitoring required pursuant to subsection (c). Revised POU Monitoring Programs shall be submitted to the State Board for review and may not be implemented without State Board approval confirming that the revised POU Monitoring Program meets the requirements of this section.

(e) The public water system shall maintain a copy of and implement the most current State Board-approved version of its POU Monitoring Program prepared pursuant to this section.

(f) If a POU effluent sample result exceeds an MCL for a contaminant other than nitrate, nitrite, nitrate plus nitrite, or perchlorate, the public water system shall:

(1) implement the public notification and alternative water procedures identified in its most recent State Board-approved POU Treatment Strategy; and

(2) collect a confirmation sample within seven days of notification of the exceedance. If the confirmation sample, or the average of the original and confirmation sample, exceeds the MCL, notify the State Board within 48 hours of the result, complete corrective actions as soon as possible but within one month of receipt of the result, and increase the monitoring frequency, as requested by the State Board to assess the effectiveness of the corrective actions.

(g) If a POU effluent sample result exceeds an MCL for nitrate, nitrite, nitrate plus nitrite, or perchlorate:

(1) implement the public notification and alternative water procedures identified in its most recent State Board-approved POU Treatment Strategy; and

(2) collect a confirmation sample within 72 hours of notification of the exceedance. If the confirmation sample, or the average of the original and confirmation sample, exceeds the MCL, notify the State Board within 24 hours of the result, continue to provide alternative water until the corrective actions have been confirmed to be effective, complete corrective actions as soon as possible but within one month of

receipt of the result, and increase the monitoring frequency, as requested by the State Board to assess the effectiveness of the corrective actions.

NOTE: Authority cited: Sections 116271, 116350, 116375, and 116400, Health and Safety Code. Reference: Sections 116325, 116350, 116380, 116385, and 116552, Health and Safety Code.

Adopt Section 64418.6 as follows:

§64418.6. Public Hearing and Acceptance.

(a) A community water system shall conduct a customer survey and participate in, and provide information for, a public hearing held by the State Board. At least 30 days prior to placing information into a public repository per paragraph (a)(2), the public water system shall submit a Public Acceptance Protocol to the State Board for review. The Public Acceptance Protocol must satisfy the following requirements in order to receive State Board approval:

(1) Prior to conducting a customer survey, a community water system shall participate in and provide information for a public hearing that, at a minimum, disseminates the following to those in its service area:

(A) a description of the public water system's POU Treatment Strategy,

(B) a description of the adverse health effects, as specified in the appendices to section 64465, associated with the contaminant(s) of concern,

(C) a copy of those portions of the POU Operation and Maintenance Program and Monitoring Program that necessitates customer involvement,

(D) the estimate of any anticipated increase in water bills that may result from utilization of POU's, and

(E) the supporting documentation, assumptions, and calculations used to determine any anticipated increase in water bills proposed to be presented at the public hearing.

(2) At least 30 days prior to the public hearing, the community water system shall place the information to be presented at the public hearing into a publicly accessible repository and notify the State Board and those in its service area of the date, time, and location of the public hearing, as well as the location and hours of operation of the repository. If the public water system serves multi-unit residential dwellings including, but not limited to, apartments and residential institutions, whether sub-metered or not, the public water system shall provide notice to each resident of such residential dwellings.

(3) Following the public hearing, the community water system shall deliver a survey to each of its customers. The survey shall be delivered in a manner designed to reach each customer and in the language appropriate for communication with the customers. The survey shall consist of the following two choices:

(A) “I vote FOR the use of Point-of-Use treatment devices.”, and

(B) “I vote AGAINST the use of Point-of-Use treatment devices.”

(b) The community water system shall at all times comply with the most recent Public Acceptance Protocol approved by the State Board pursuant to this section.

(c) Use of POU treatment devices in lieu of centralized treatment shall be considered to have no substantial community opposition if:

(1) the sum of the number of non-voting customers and the number of customers voting against POU, is less than half of the total customers; and

(2) no more than 25 percent of the total number of customers voted against POU.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116275, 116325, 116350 and 116552, Health and Safety Code.

Adopt Section 64418.7 as follows:

§64418.7. Recordkeeping and Reporting.

(a) A public water system shall maintain the following records for at least ten years and provide the records to the State Board, as specified in subsection (b) or upon request:

- (1) results of all water quality monitoring conducted pursuant to this Article;
- (2) the location and type of each installed POU;
- (3) the date and type of maintenance and repairs performed; and
- (4) verbal and written customer complaints received and the resulting corrective actions and/or responses.

(b) A public water system shall report to the State Board, at the frequency noted, the following:

- (1) monthly – treated water quality monitoring results;
- (2) quarterly – source water monitoring results and any investigations and/or corrective action(s) taken to ensure POU's meet the requirements of this Article including, but not limited to, POU maintenance, customer complaints, inspection results, and manufacturer notices pertaining to proper operation of devices.

(c) The reports required pursuant to subsection (b) shall be submitted to the State Board within ten days following the end of the applicable reporting period.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64418.8 as follows:

§64418.8. Compliance.

(a) A public water system using POU's in lieu of centralized treatment shall be in violation of an MCL if:

(1) for all POU's combined, during a 12-month interval, more than five percent (5%) of the results of the effluent monitoring conducted pursuant to section 64418.5 exceed an MCL;

(2) for a POU, the effluent fails to meet the MCL, which is determined in accordance with the applicable compliance determination requirements in this Title. Depending on the contaminant and concentration detected, compliance determination may be based on the result of a single sample, an initial sample averaged with one or two confirmation sample(s), or an average of four quarterly or six monthly samples; or

(3) a building or dwelling unit served by the water system does not have a POU installed pursuant to this Article.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

ARTICLE 2.7. Point-of-Entry Treatment

Adopt Section 64419 as follows:

§64419. Definitions.

“Point-of-entry treatment device” or “POE” means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminant levels in the drinking water distributed throughout the house or building.

Notwithstanding the foregoing, where all the water supplied by a public water system for human consumption is treated by the public water system via a single device or facility, regardless of location of the device or facility, the public water system shall be considered to have centralized treatment.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64420 as follows:

§64420. General Provisions.

(a) Except for a proposed new community water system that does not have a domestic water supply permit, a public water systems that meets the requirements of Health and Safety Code section 116380(a) may be permitted to use POEs in lieu of centralized treatment for the purpose of complying with one or more maximum contaminant levels, action levels, or treatment techniques in this Title and as allowed under the state and federal State Drinking Water Acts, if:

(1) the public water system meets the requirements of this Article and any applicable statutory requirements;

(2) the public water system has:

(A) applied for funding from any federal, state, or local agency to correct the system’s violations, and

(B) demonstrated to the State Board that centralized treatment for achieving compliance is not immediately economically feasible, as defined in section 64420.1;

(3) the public water system has applied for a permit or permit amendment to use POEs. The duration of the permit or permit amendment issued will be in accordance with Health and Safety Code section 116552;

(4) for a community water system, following a public hearing, the State Board determines pursuant to section 64420.6 that there is no substantial community opposition;

(5) the public water system has a State Board-approved:

(A) POE Treatment Strategy, as defined in section 64420.3,

(B) POE Operations and Maintenance Program, as defined in section 64420.4, and

(C) POE Monitoring Program, as defined in section 64420.5; and

(6) the public water system ensures that each building connected to the public water system has a POE installed pursuant to this Article.

(b) With State Board approval and without having to meet the requirement of paragraph (a)(6), a public water system may utilize POEs in lieu of centralized treatment for the purpose of reducing contaminant levels to levels at or below one or more of the maximum contaminant levels, action levels, or treatment techniques in this Title, in the water it supplies to some or all of the persons it serves, but the public water system will not be deemed in compliance without meeting the requirement of paragraph (a)(6). A public water system’s application for a permit to utilize POEs pursuant to this subsection

may include a request that one or more of the requirements of this article be amended or eliminated to address the public water system's specific utilization, and such request may be granted or denied by the State Board.

(c) Funding for centralized treatment is available when funding for centralized treatment, from any source, is received by, or otherwise placed under control of, the public water system.

(d) As used in this article, the estimated cost for both centralized treatment and POE treatment shall be the complete life cycle cost for a similar period of time.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64420.1 as follows:

§64420.1. Immediate Economic Feasibility of Centralized Treatment.

(a) To specifically meet the requirements of subparagraph 64420 (a)(2)(B), a community water system, when comparing the costs of centralized treatment to the use of POE treatment, shall submit to the State Board information demonstrating that the:

(1) estimated annual cost of centralized treatment, per household, is more than one percent (1%) of the median household income (MHI) of the customers served by the community water system; and

(2) (A) -if the community's annual MHI is equal to or less than the statewide annual MHI, the estimated annual cost of centralized treatment, per household, plus the median annual water bill from the most recent 12 months per household is more than 1.5 percent (1.5%) of the annual MHI of the customers served by the community water system, or

(B) if the community's annual MHI is greater than the statewide annual MHI, the estimated annual cost of centralized treatment, per household, plus the median annual water bill from the most recent 12 months per household is more than two percent (2%) of the annual MHI of the customers served by the community water system.

(b) A noncommunity water system shall submit to the State Board documents that demonstrate that centralized treatment is not immediately economically feasible.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64420.2 as follows:

§64420.2. POE Requirements.

(a) Each POE must:

(1) be independently certified in accordance with an American National Standard Institute (ANSI) standard that is applicable to the specific type of proposed POE and that adequately addresses a California drinking water standard; or

(2) be approved by the State Board upon determination that the proposed POE unit design, construction, treatment performance, and available field or pilot test results can reliably produce water in compliance with California drinking water standards under local expected influent water quality and flow conditions;

(3) be owned, controlled, operated, and maintained by the public water system and/or a person(s) under contract with the public water system, to ensure proper operation, maintenance, monitoring, and compliance with this Article and applicable drinking water standards;

(4) be equipped with a mechanical warning (e.g. alarm, light, etc.) that alerts users when a unit needs maintenance or is no longer operating in a manner that assures the unit is producing effluent meeting state and federal drinking water standards, unless the device is equipped with an automatic shut-off mechanism that prevents the flow of water under such circumstances; and

(5) be equipped with a totalizing flow meter.

(b) Except as provided in subsection (c), pilot testing shall be performed by the public water system, and/or a person(s) under contract with the public water system, on each proposed type of POE to establish its use limitations and operations and maintenance criteria, as well as verification that it will produce effluent that meets drinking water standards under local expected influent water quality and flow conditions. Pilot testing shall include the following steps:

(1) Prior to performing pilot testing, a pilot testing protocol shall be submitted to the State Board for review. The pilot testing protocol must be adequate to demonstrate that water treated by the POE will meet drinking water standards;

(2) Pilot testing for a POE shall be conducted in the manner and for the time period specified by the most current pilot testing protocol for that POE approved under section 64420.2(b)(1), and shall be conducted for no less than two months; and

(3) After completion of the pilot testing, the public water system shall submit a report to the State Board describing the results and findings of the pilot testing.

(c)The State Board may exempt a public water system from the pilot testing requirements in section 64418.2(b), or permit a reduced level of pilot testing required pursuant to subsection (b), if:

(1) the public water system demonstrates to the State Board that the POEs proposed for use have been tested, by the public water system or another person, under equivalent water quality and flow conditions; and

(2) the limitations, criteria, and effluent verification in subsection (b) can be ascertained and have been reported to the State Board.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380, 116552 and 116835, Health and Safety Code.

Adopt Section 64420.3 as follows:

§64420.3. POE Treatment Strategy.

(a) Prior to installing POEs, and as part of its permit application to use POE in lieu of centralized treatment, a public water system shall submit to the State Board a POE Treatment Strategy sufficient to reliably reduce levels of contaminants and comply with drinking water standards. The POE Treatment Strategy shall include each of the following:

(1) A description of the compliance issues for which POEs are being proposed to address and how the use of POEs will achieve compliance;

(2) A description of how the public water system will determine the type, number, and location of POEs to ensure POEs serve, in their entirety, each building connected to the public water system;

(3) The public water system's authority to require customers to accept POEs in lieu of centralized treatment and to take an action, such as discontinuing service, if a customer fails to accept POEs, or disconnects or modifies a POE installed pursuant to this Article;

(4) The basis for the POE selection(s);

(5) The qualifications and identification of the person(s) responsible for POE installation, operation, maintenance, and water quality sampling and analyses;

(6) A Customer Education Program that includes information about the POE, how the devices work, required maintenance and monitoring, and the need for the person(s) responsible for the POE, as defined in paragraph (a)(5) of this section, to have access to the device to perform required maintenance and monitoring. The Customer Education Program shall be designed to reach all customers and shall be implemented prior to and following installation of POEs;

(7) The authority, ordinances, and/or access agreements adequate to allow the public water system's representatives access to customers' premises for POE installation, maintenance, and water quality monitoring, as well as the surveys necessary to meet paragraph (a)(2);

(8) Identification of applicable local regulatory requirements;

(9) A Consumer Notification Protocol designed to timely inform consumers, in the appropriate language(s), in the event that an installed POE fails to produce water that meets drinking water standards. The Consumer Notification Protocol shall include:

(A) an example of a notice that includes the requirements of Article 18 of this Title, and

(B) a plan for providing an alternative water supply that meets drinking water standards, consistent with section 64551.100 of this Title, in a quantity sufficient for daily household ingestion needs, to customers served by each installed POE not meeting drinking water standards. An alternative water supply shall be provided according to the following timeline;

1. as soon as possible, but no later than 24 hours following the receipt of results of confirmation samples indicating an MCL exceedance for nitrate, nitrite, nitrate plus nitrite, or perchlorate, or

2. as soon as possible, but no later than 7 days following the receipt of results of confirmation samples indicating an MCL exceedance for contaminants other than nitrate, nitrite, nitrate plus nitrite, or perchlorate;

(10) A Customer Notification Protocol for routine notifications that includes examples of notices, to be provided no less frequently than quarterly, in the appropriate language(s) to inform each customer:

(A) which water supplies are not treated by the POEs, and

(B) regarding the mechanical warning or shut-off mechanism required pursuant to paragraph 64420.2(a)(5), including a telephone number that connects the customer to water system personnel or recording system that shall be accessible by water system personnel 24-hours a day, seven days a week, for the purpose of providing the customer a reliable means of notifying personnel when the mechanical warning or shut-off mechanism is activated;

(11) The proposed schedules for:

(A) the distribution of public hearing information pursuant to section 64420.6,

(B) the public hearing required pursuant to section 64420.6,

(C) the distribution to customers of POE acceptance surveys pursuant to section 64420.6,

(D) POE installation, and

(E) the construction of centralized treatment;

(12) An estimate of the percent of all customers within the public water system's service area who are expected to voluntarily allow installation of POE devices, as well as a description of how the public water system will address customers who do not; and

(13) The means for ensuring that the rights and responsibilities of the customer, with respect to an installed POE, convey with title upon the sale or transfer of property to which the POE is attached.

(b) A public water system shall comply with the most current State Board-approved version of its POE Treatment Strategy at all times.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64420.4 as follows:

§64420.4. POE Operations and Maintenance (O&M) Program.

(a) Prior to installing POEs, and as part of its permit application to use POE in lieu of centralized treatment, a public water system shall submit to the State Board a POE Operations and Maintenance (O&M) Program sufficient to reliably reduce levels of contaminants and comply with drinking water standards. The POE O&M Program shall include the following:

(1) An installation protocol that, at a minimum, describes locations and assurances that POEs will be accessible for operation and maintenance;

(2) The type and frequency of maintenance, at intervals specified by the manufacturer and determined by pilot testing, whichever is shorter, that ensures POEs produce effluent that meets drinking water standards;

(3) The number and type of auxiliary POEs and parts necessary to ensure continuous effective treatment;

(4) Replacement schedules for critical components and POEs necessary to ensure continuous effective treatment;

(5) The qualifications and identification of the person(s) responsible for POE installation, operation, and maintenance; and

(6) POE waste-handling and disposal procedures sufficient to ensure that wastes generated by the POE and the POE itself are properly and safely disposed of in accordance with federal, state and local requirements.

(b) To ensure a POE is properly operating and has not been bypassed, POEs shall be inspected by the public water system no less often than every twelve months and when a POE's effluent is monitored pursuant to section 64420.5.

(c) Based on the on-going operation and maintenance of installed POEs, a public water system shall revise its POE O&M Program as necessary to ensure continuous effective treatment and that POEs produce effluent that meets drinking water standards. Revised POE O&M Programs shall be submitted to the State Board for review and may not be implemented without State Board approval confirming that the revised POE O&M Program meets the requirements of this section.

(d) A public water system shall maintain a copy of and implement the most current State Board-approved version of its POE O&M Program.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64420.5 as follows:

§64420.5. POE Monitoring Program.

(a) Prior to installing POEs, and as part of its permit application to use POE in lieu of centralized treatment, a public water system shall submit to the State Board a POE Monitoring Program sufficient to ensure that water treated by the proposed POE consistently meet drinking water standards. The POE Monitoring Program shall include the following:

(1) source water monitoring – quarterly, with samples collected during the same month (first, second, or third) of each calendar quarter;

(2) POE effluent – initially, with samples collected as soon as possible but no later than 72 hours after a device is installed; and

(3) POE effluent, on-going following the monitoring in paragraph (a)(2), annually, with one twelfth of all units sampled monthly on a rotating basis. After completion of one year of monitoring, a public water system may alternatively monitor one quarter of all units each calendar quarter provided that monitoring results do not exceed 75 percent (75%) of a contaminant's MCL, and the water system submits a revised monitoring plan to the State Board. Water systems shall resume monthly monitoring if results exceed 75 percent (75%) of a contaminant's MCL.

(b) For a contaminant other than nitrate, nitrite, nitrate plus nitrite, or perchlorate, after no less than one year of monitoring conducted pursuant to subsection (a), a public water system may reduce the number of POE units monitored to no fewer than one third of all installed units per year such that all installed devices are sampled no less frequently than once every three years, if all the results of the on-going monitoring conducted pursuant to paragraph (a)(3) do not exceed 75 percent (75%) of a contaminant's MCL, and the public water system submits a revised monitoring plan to the State Board.

(c) The State Board may require additional monitoring for the contaminant of concern or other contaminants, including microbial contaminants, if monitoring results indicate a potential health risk associated with the contaminant, POE technology, or a public water system's compliance with this Article.

(d) The public water system shall revise its POE Monitoring Program as necessary to ensure continuous effective treatment based on the on-going operation and maintenance of installed POEs or additional monitoring required pursuant to subsection (c). Revised POE Monitoring Programs shall be submitted to the State

Board for review and may not be implemented without State Board approval confirming that the revised POE Monitoring Program meets the requirements of this section.

(e) The public water system shall maintain a copy of and implement the most current State Board-approved version of its POE Monitoring Program prepared pursuant to this section.

(f) If a POE effluent sample result exceeds an MCL for a contaminant other than nitrate, nitrite, nitrate plus nitrite, or perchlorate, the public water system shall:

(1) implement the public notification and alternative water procedures identified in its most current State Board-approved POE Treatment Strategy; and

(2) collect a confirmation sample within seven days of notification of the exceedance. If the confirmation sample, or the average of the original and confirmation sample, exceeds the MCL, notify the State Board within 48 hours of the result, complete corrective actions as soon as possible but within one month of receipt of the result, and increase the monitoring frequency, as requested by the State Board to assess the effectiveness of the corrective actions.

(g) If a POE effluent sample result exceeds an MCL for nitrate, nitrite, nitrate plus nitrite, or perchlorate:

(1) implement the public notification and alternative water procedures identified in its most current State Board-approved POU Treatment Strategy; and

(2) collect a confirmation sample within 72 hours of notification of the exceedance. If the confirmation sample, or the average of the original and confirmation sample, exceeds the MCL, notify the State Board within 24 hours of the result, continue to provide alternative water until the corrective actions have been confirmed to be effective, complete corrective actions as soon as possible but within one month of receipt of the result, and increase the monitoring frequency as requested by the State Board to assess the effectiveness of the corrective actions.

NOTE: Authority cited: Sections 116271, 116350, 116375, and 116400, Health and Safety Code. Reference: Sections 116325, 116350, 116380, 116385, and 116552, Health and Safety Code.

Adopt Section 64420.6 as follows:

§64420.6. Public Hearing and Acceptance.

(a) A community water system shall conduct a customer survey and participate in, and provide information for, a public hearing held by the State Board. At least 30 days prior to placing information into a public repository per subsection (a)(2), the public water system shall submit a Public Acceptance Protocol, to the State Board for review. The Public Acceptance Protocol must satisfy the following requirements in order to receive State Board approval:

(1) Prior to conducting a customer survey, a community water system shall participate in and provide information for a public hearing that, at a minimum, disseminates the following to those in its service area:

(A) a description of the public water system's POE Treatment Strategy;

(B) the adverse health effects, as specified in the appendices to section 64465, associated with the contaminant(s) of concern,

(C) POE Operation and Maintenance Program and Monitoring Program information that necessitates customer involvement,

(D) the estimate of any anticipated increase in water bills that may result from utilization of POEs, and

(E) the supporting documentation, assumptions, and calculations used to determine any anticipated increase in water bills proposed to be presented at the public hearing.

(2) At least 30 days prior to the public hearing, the community water system shall place the information to be presented at the public hearing into a publicly accessible repository and notify the State Board and those in its service area of the date, time, and location of the public hearing, as well as the location and hours of operation of the repository. If the public water system serves multi-unit residential dwellings including, but not limited to, apartments and residential institutions, whether sub-metered or not, the public water system shall provide notice to each resident of such residential dwellings.

(3) Following the public hearing, the community water system shall deliver a survey to each of its customers. The survey shall be delivered in a manner designed to reach each customer and in the language appropriate for communication with the customers. The survey shall consist of the following two choices:

(A) “I vote FOR the use of Point-of-Entry treatment devices.”, and

(B) “I vote AGAINST the use of Point-of-Entry treatment devices.”

(b) The community water system shall at all times comply with the most recent Public Acceptance Protocol approved by the State Board pursuant to this section.

(c) Use of POE treatment devices in lieu of centralized treatment shall be considered to have no substantial community opposition if:

(1) the sum of the number of non-voting customers and the number of customers voting against POEs, is less than half of the total customers; and

(2) no more than 25 percent of the total number of customers voted against POEs.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116275, 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64420.7 as follows:

§64420.7. Recordkeeping and Reporting.

(a) A public water system shall maintain the following records for at least ten years and provide the records to the State Board, as specified in subsection (b) or upon request:

- (1) results of all water quality monitoring conducted pursuant to this Article;
- (2) the location and type of each installed POE;
- (3) the date and type of maintenance and repairs performed; and
- (4) verbal and written customer complaints received and the resulting corrective actions and/or responses.

(b) A public water system shall report to the State Board, at the frequency noted, the following:

- (1) monthly – treated water quality monitoring results;
- (2) quarterly – source water monitoring results and any investigations and/or corrective action(s) taken to ensure POEs meet the requirements of this Article including, but not limited to, POE maintenance, customer complaints, inspection results, and manufacturer notices pertaining to proper operation of devices.

(c) The reports required pursuant to subsection (b) shall be submitted to the State Board within ten days following the applicable reporting period.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.

Adopt Section 64420.8 as follows:

§64420.8. Compliance.

(a) A public water system using POEs in lieu of centralized treatment shall be in violation of an MCL if:

(1) for all POEs combined, during a 12-month interval, more than five percent (5%) of the results of the effluent monitoring conducted pursuant to section 64420.5 exceed an MCL;

(2) for a POE, the effluent fails to meet the MCL, which is determined in accordance with the applicable compliance determination requirements in this Title. Depending on the contaminant and concentration detected, compliance determination may be based on the result of a single sample, an initial sample averaged with one or two confirmation sample(s), or an average of four quarterly or six monthly samples; or

(3) a building or dwelling unit served by the water system does not have a POE installed pursuant to this Article.

NOTE: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code. Reference: Sections 116325, 116350, 116380 and 116552, Health and Safety Code.