

State Water Resources Control Board
Division of Drinking Water

**Final Statement of Reasons for Rulemaking,
Including Comments and Agency Response**

**POINT-OF-USE AND POINT-OF-ENTRY TREATMENT,
PERMANENT REGULATIONS**

Public Hearing Date: 27 November 2017

Board Meeting Date: 6 February 2018

Agenda Item No.: 9

I. GENERAL

- A. At its 6 February 2018 meeting, the State Water Resources Control Board (State Water Board) adopted regulations governing the use of point-of-use devices (POUs) and point-of-entry devices (POEs) in lieu of centralized treatment. Consistent with Health and Safety Code (HSC) section 116380(a), the regulations limit the use of POU and POE devices in lieu of centralized treatment to public water systems with fewer than 200 service connections. Emergency regulations adopted by the State Water Board on 15 March 2016 pursuant to HSC section 116380(b) for the use of POU and POE devices remained in effect until 1 January 2018.

The Initial Statement of Reasons (ISR) for Rulemaking – Point-of-Use and Point-of-Entry Regulations, released on 13 October 2017, is incorporated by reference herein. The ISR contained a description of the rationale for the proposed amendments. On 13 October 2017, a list of documents relied upon and identified in the ISR was made available to the public. Subsequently, additional documents relied upon for the preparation of the proposed regulations were identified and made available to the public on 18 January 2018. These additional documents are the following:

- Center for Watershed Sciences, University of California, Davis, July 2012, “Drinking Water Treatment for Nitrate”, Technical Report 6, for the California State Water Resources Control Board (<http://groundwaternitrate.ucdavis.edu/files/139107.pdf>).

- U.S. EPA, April 2007, EPA 815-B-07-001, “Cost Evaluation of Point-of-Use and Point-of-Entry Treatment Units for Small Systems: Cost Estimating Tool and User Guide” (<https://www.epa.gov/sites/production/files/2015-04/documents/epa815b07001.pdf>).
- ALSA Tech, LLC, September 2011, EPA/600/R-11/090, “Costs of Arsenic Removal Technologies for Small Water Systems: U.S. EPA Arsenic Removal Technology Demonstration Program”, for the National Risk Management Research Laboratory, Office of Research and Development, U.S. Environmental Protection Agency.
- Water Quality & Treatment Solutions, Inc. (WQTS), 2013, “Cost of Cr(VI) Removal from Groundwater, for the Water Research Foundation” (<http://crvitreatmentcosts.com/cost-calculator/>).

Based on comments received during the 45-day comment period and public testimony received at the 27 November 2017 hearing, State Water Board staff revised the proposed regulations and provided notice of additional comment periods that ran from 3 January 2018 to noon on 17 January 2018, and from 18 January 2018 to 12:00 p.m. on 2 February 2018. Changes in regulation text that were provided in the early January notice could still be commented on during the late January comment period. All comments received during those comment periods were included in the record, as well as the late comment received after 12:00 p.m. on 2 February 2018. On 6 February 2018, the State Water Board adopted the proposed regulations without any further changes.

B. MANDATES AND FISCAL IMPACTS TO LOCAL GOVERNMENTS AND SCHOOL DISTRICTS

The State Water Board has determined that this regulatory action would not result in a mandate to any local agency or school district, the cost of which would be reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code.

Specifically, these regulations governing the use of POU and POE would apply to public water systems, some of which are businesses, and others of which are public entities. The proposed regulations would apply only to those water systems that choose to install POU or POE devices in lieu of installing centralized treatment of contaminants, which they would otherwise be required to do. The regulations would provide that a water system could use POU or POE only if centralized treatment is not

immediately economically feasible. Thus, it is likely that in the cases where a public water system chooses POU or POE, the installation and operation of POU or POE would be less expensive than construction and operation of centralized treatment.

C. CONSIDERATION OF ALTERNATIVES

For the reasons set forth in the ISR, in staff's comments and responses at the hearing, and in this Final Statement of Reasons (FSR), the State Water Board determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the action taken by the State Water Board.

Specifically, consistent with the requirements of Health and Safety Code sections 116380 and 116552, the State Water Board adopted regulations governing the use of POU and POE treatment by public water systems in lieu of installation and operation of more costly centralized treatment. As noted in the ISR, no alternatives were identified by or brought to the attention of the State Water Board that would more effectively carry out the purpose for which this action was proposed.

II. MODIFICATIONS MADE TO THE ORIGINAL PROPOSAL

A. MODIFICATIONS APPROVED AND PROVIDED FOR IN THE 15-DAY COMMENT PERIOD

Based on comments received during the initial 45-day comment period and public testimony received at the 27 November 2017 hearing, State Water Board staff revised the proposed regulations, including the proposed addition of section 64418.8 to title 22, division 4, chapter 15, article 2.5, and section 64420.8 to title 22, division 5, chapter 15, article 2.7.

California Code of Regulations (CCR) Title 22, Division 4, Chapter 15, Article 2.5, Section 64418.8, Compliance (Point-of-Use Treatment)

Section 64418.8 would be added to describe how compliance with drinking water standards would be assessed for a public water system using point-of-use treatment devices in lieu of centralized treatment. This

description is necessary to ensure uniform compliance determination when considering effluent from numerous point-of-use treatment devices rather than a single, centralized water treatment plant.

CCR Title 22, Division 4, Chapter 15, Article 2.7, Section 64420.8, Compliance (Point-of-Entry Treatment)

Section 64420.8 would be added to describe how compliance with drinking water standards would be assessed for a public water system using point-of-entry treatment devices in lieu of centralized treatment. This description is necessary to ensure uniform compliance determination when considering effluent from numerous point-of-use treatment devices rather than a single, centralized water treatment plant.

Summary of Modifications

Table 1 summarizes all modifications made and the rationale for making these modifications, as released on 3 January 2018 and 18 January 2018 for public comment. The public comment period was extended until 12:00 p.m. on 2 February 2018. Detailed responses to comments received are introduced in Section IV below and presented in Attachment Nos. 1 and 2.

Table 1: Revisions to the Proposed Regulations Text

Section	Change Made and Rationale	Date ¹
<i>Point-of-Use (POU):</i>		
§64418(a)	Addition of a reference to Health and Safety Code §116380(a) to clarify that eligible water systems are only those with fewer than 200 service connections.	3-Jan-2018
§64418(a)	Addition of “organic chemicals that pose an inhalation risk” to the list of contaminants for which POU cannot be used.	18-Jan-2018
§64418(a)(2)(A)	Removal of an unnecessary space at the beginning of the paragraph.	3-Jan-2018
§64418(a)(3)	Addition of a reference to Health and Safety Code §116552 to restrict the permit terms to three years or until funding for centralized treatment is available, whichever occurs first.	3-Jan-2018
§64418(a)(3)	Removal of an unnecessary space in the middle of the sentence.	3-Jan-2018
§64418.1(a)(2)(A)	Removal of an unnecessary space at the beginning of the paragraph.	3-Jan-2018
§64418.2(a)(1)	Removal of an unnecessary space prior to “;” at the end of the paragraph.	3-Jan-2018

Section	Change Made and Rationale	Date¹
§64418.3(a)(9)(A)	“Chapter” was corrected to “Title”.	3-Jan-2018
§64418.3(a)(9)(B)	Language was clarified to limit the provision of alternative water supply to the customer served by the installed POU not meeting drinking water standards, as opposed to all customers served by each installed POU.	3-Jan-2018
§64418.3(b)	Addition of “POU” to specify that the treatment strategy is for POU and not for other treatment strategies.	3-Jan-2018
§64418.5(a)	The long sentence was broken into two shorter sentences for clarity purposes and to parallel §§64418.3 and 64418.4.	3-Jan-2018
§64418.6(a)(1)(C) and (D)	The word “and” was moved from the end of paragraph (C) to the end of paragraph (D).	3-Jan-2018
§64418.6(b)	Removal of an unnecessary space at the beginning of the paragraph.	3-Jan-2018
§64418.8	Addition of a paragraph to describe how compliance would be determined for water systems using POE in lieu of centralized treatment.	3-Jan-2018
§64418.8(a)(1)	This section was incorrectly referring to §64420.5, which is applicable to POEs. It was corrected to refer to §64418.5, which is applicable to POU.	18-Jan-2018
<i>Point-of-Entry (POE):</i>		
§64420(a)	Addition of a reference to Health and Safety Code §116380(a) to clarify that eligible water systems are only those with fewer than 200 service connections.	3-Jan-2018
§64420(a)(3)	Addition of a reference to Health and Safety Code §116552 to restrict the permit terms to three years or until funding for centralized treatment is available, whichever occurs first.	3-Jan-2018
§64420.1(a)(2)(A)	Removal of an unnecessary space at the beginning of the paragraph.	3-Jan-2018
§64420.2(b)	Removal of an unnecessary space at the beginning of the paragraph.	3-Jan-2018
§64420.3(a)(9)(A)	“Chapter” was corrected to “Title”.	3-Jan-2018
§64420.3(a)(9)(B)	Language was clarified to limit the provision of alternative water supply to the customer served by the installed POE not meeting drinking water standards, as opposed to all customers served by each installed POE.	3-Jan-2018
§64420.3(a)(10)(A)	Removal of an unnecessary space at the beginning of the paragraph.	3-Jan-2018

Section	Change Made and Rationale	Date ¹
§64420.3(b)	Addition of “POE” to specify that the treatment strategy is for POE and not for other treatment strategies.	3-Jan-2018
§64420.5(a)	The long sentence was broken into two shorter sentences for clarify purposes and to parallel §§64420.3 and 64420.4.	3-Jan-2018
§64420.5(a)	“POUs” was changed to “POEs” to correct this typographical error.	3-Jan-2018
§64420.6(a)(1)(E)	Addition of a paragraph to require that supporting documentation, assumptions, and calculations used to determine any anticipated increase in water bills be presented at the public hearing, to parallel the previously proposed paragraph in §64418.6(a)(1)(E).	3-Jan-2018
§64420.6(a)(1)(C) and (D)	Because of the change to §64420.6(a)(1)(E), “and” was moved from the end of paragraph (C) to the end of paragraph (D).	3-Jan-2018
§64420.8	Addition of a paragraph to describe how compliance would be determined for water systems using POE in lieu of centralized treatment.	3-Jan-2018

¹ Date when the change was made available to the public for comments.

B. MINOR MODIFICATIONS

No modifications were approved at the State Water Board meeting, and no changes were proposed that required an additional 15-day comment period. However, subsequent to the public comment periods, staff identified additional non-substantive changes to the regulations. These non-substantive changes are detailed in Table 2.

Table 2: Post Comment Period Revisions to the Proposed Regulations Text

Section	Change Made and Purpose
§64418.1(a)(2)(A)	A space was added between “(2)” and “(A)” before this paragraph.
§64418.1 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.
§64418.2 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.
§64418.3 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.
§64418.4 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.
§64418.5 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.

Section	Change Made and Purpose
§64418.6(a)(2)	The indentation was corrected.
§64420.1 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.
§64420.3 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.
§64420.4 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.
§64420.5 NOTE, Reference	The serial comma was removed, and a comma was added before “Health and Safety Code”.

III. DOCUMENTS INCORPORATED BY REFERENCE

The proposed regulations do not incorporate any documents by reference.

IV. SUMMARY OF COMMENTS AND AGENCY RESPONSES

Written comments were received during an initial 45-day comment period in response to the Public Notice of Proposed Rulemaking, issued 13 October 2017. Oral comments were received during the 27 November 2017 public hearing. Additional written comments were received during the comment periods that ran from 3 January 2018 to 17 January 2018, and from 18 January 2018 to 2 February 2018. Table 3 lists the organizations and individuals that provided comments during the comment periods. Attachment No. 1 contains an introduction to comments received and agency responses, followed by detailed responses to each comment received.

Table 3: Individuals and Affiliations that Provided Comments

Individuals and Affiliations	Type of Comments
Mr. Michael Garabedian, Friends of the North Fork of the American River	Oral
Mr. Glenn Reynolds, Water Solutions Incorporated	Written
Leadership Counsel for Justice and Accountability, Community Water Center, Self-Help Enterprises, Clean Water Action	Written
Ms. Cindy Ziernicki, Helix Water District	Written
Mr. Alan Tandy, City of Bakersfield	Written

Individuals and Affiliations	Type of Comments
Mr. Andrew DeGraca, San Francisco Public Utilities Commission	Written
Ms. Stacey Harrington, Napa County	Written
Mr. Jack Rice, California Farm Bureau Federation	Written

V. THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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. The State Water Board staff determined that the proposed regulations represent a project that is categorically exempt from CEQA under one or more of the exemptions allowed pursuant to Public Resources Code section 21084 and CEQA Guidelines 14 CCR 15301, 15302, 15303, 15308, 15311 and 15330. This determination has directed State Water Board staff to prepare and submit to the State Clearinghouse a Notice of Exemption reflecting this determination. The Notice of Exemption was filed on 11 October 2017.

VI. PEER REVIEW

Health and Safety Code section 57004 sets forth requirements for peer review of identified portions of rulemaking proposed by entities within the California Environmental Protection Agency (CalEPA), including the State Water Board. Specifically, the scientific basis or scientific portion of a proposed rule may be subject to this peer-review process. Because the proposed regulations do not contain a scientific portion, an external scientific peer review was not conducted.

VII. ATTACHMENTS

- Attachment No. 1: Summary of Written and Oral Comments on the Proposed Point-of-Use and Point-of-Entry Treatment – Permanent Regulations;
- Attachment No. 2: Detailed Responses to Comments on the Proposed Point-of-Use and Point-of-Entry Treatment – Permanent Regulations.