NOTICE OF PUBLIC AVAILABILITY OF CHANGES TO PROPOSED PERMANENT REGULATIONS REGARDING POINT-OF-USE AND POINT-OF-ENTRY TREATMENT

TITLE 22. SOCIAL SECURITY
DIVISION 4. ENVIRONMENTAL HEALTH
CHAPTER 15. DOMESTIC WATER QUALITY AND MONITORING REGULATIONS

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board (State Water Board) has changed the text of the proposed permanent regulations for Point-of-Use (POU) and Point-of-Entry (POE) Treatment. The State Water Board has also prepared an Addendum to the Initial Statement of Reasons (ISOR). The State Water Board is making the changes to the proposed regulatory text and the Addendum to the ISOR available for public comment. Additionally, the State Water Board is providing further opportunity for public comment on changes to the proposed regulatory text and additional documentation, which were previously noticed for public comment on January 3, 2018 and January 18, 2018.[1]

CHANGES TO THE POU/POE REGULATORY TEXT

A copy of the proposed text is attached. The original text of the proposed regulations is indicated in single underline. Changes proposed in the January 3 and 18, 2018 public notices are indicated in double underline, and deleted proposed regulation text indicated in ~~double strikethrough~~. Subsequent proposed changes to the regulation text are indicated in boxed text.

> **Comments related to changes proposed and noticed in the January 3, 2018 and January 18, 2018 public notices (as shown in double underline, ~~double strikethrough~~) and those changes proposed in this public notice (as shown in boxed text) will be accepted during this 15-day comment period.**

ADDITIONAL SECTIONS 64418.8 AND 64420.8, COMPLIANCE

These sections of the proposed regulations describe how compliance with drinking water standards will assessed for a public water system using POU (section 64418.8) or POE (section 64420.8) treatment devices in lieu of centralized treatment. These descriptions are necessary to ensure uniform compliance determination when considering effluent from numerous POU treatment devices rather than a single, centralized water treatment plant.

[1] Copies of the January 3, 2018 and January 18, 2018 public notices may be found at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/regulations/ or by contacting the State Board contact persons listed below.

ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Modifications to the Initial Statement of Reasons (ISOR) were made in response to comments received from the Office of Administrative Law regarding explanations of necessity. These modifications are shown in the attached Addendum.

New and expanded descriptions of the proposed regulation sections pertaining to the POU Treatment Strategy (section 64418.3), the POE Treatment Strategy (64420.3) of the proposed regulations), Recordkeeping and Reporting (sections 64418.7 and 64420.7 for POU and POE, respectively), and Compliance (sections 64418.8 and 64420.8 for POU and POE, respectively) are provided in the Addendum to include (1) the specific purpose of each adoption; (2) the problem the agency intends to address; and (3) the rationale for the determination by the agency that each adoption is reasonably necessary to carry out the purpose and address the problem for which it is proposed.

ADDITIONAL DOCUMENTS RELIED UPON

The additional documents relied upon are listed below and are available at the State Board's office at 1001 I Street, Sacramento, California during normal business hours (8:00 a.m. – 5:00 p.m. Monday-Friday) and at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/regulations/

- 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
- 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"
- 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"

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Any person, or his or her representative, may submit written comments related to the changes made to the proposed regulatory text (as indicated in double underline, ~~double strikethrough~~, or boxed text), the addendum to the ISOR, and the additional documents relied upon to the State Water Board. Pursuant to Government Code section 11346.8(c), this 15-day written comment period closes at **12:00 p.m. on November 27, 2018**. The State Water Board will only consider comments received at the State Water Board offices by that time. Please submit written comments through one or more of the following means:

Electronic mail (email): commentletters@waterboards.ca.gov

FAX: (916) 341-5620

Postal Service: Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Hand Delivery: Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Persons delivering comments must check in with lobby security and have them contact Ms. Jeanine Townsend at (916) 341-5600.

Also, please indicate in the subject line and/or on the cover page of submittals: "**Comments – Proposed Revised POU/POE Regulations**".

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 any notices that may be required in future.

Due to the limitations of the email system, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by the State Water Board. Therefore, emails larger than 15 MB should be submitted under separate emails or via another form of delivery.

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, that 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.

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.

The Administrative Procedures Act requires that staff respond to comments received regarding all noticed changes. In the Final Statement of Reasons, staff will respond to all comments received on the record during the comment periods.

SPECIAL ACCOMMODATION REQUEST

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

- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5524 as soon as possible. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

SI NECESITA ARREGLOS ESPECIALES

Conforme a la Sección 7296.2, del Código del Gobierno de California, los siguientes servicios o arreglos especiales pueden ser solicitados:

- Documentos en otro idioma o en un formato alterno;
- Arreglos razonables relacionados a una discapacidad.

Para pedir estos arreglos especiales o servicios en otro idioma, puede contactar a la Secretaria de la Junta (Board) al (916) 341-5254 lo más pronto posible. Los usuarios del Sistema TTY/TDD/Voz-a-Voz pueden marcar el 7-1-1 para utilizar el California Relay Service.

STATE BOARD CONTACT PERSONS

Requests for copies of the proposed regulatory text, the Initial Statement of Reasons (ISOR) and its addendum, subsequent modifications of the proposed regulation text, 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, California 95814
Telephone: (916) 323-0373
Electronic mail address: melissa.hall@waterboards.ca.gov

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

Mark Bartson, P.E.
Supervising Sanitary Engineer
State Water Resources Control Board, Division of Drinking Water
1001 I Street, 17th Floor
Sacramento, California 95814
Telephone: (916) 449-5622
Electronic mail address: mark.bartson@waterboards.ca.gov

INTERNET ACCESS

Copies of this Notice, the Notice of Proposed Rulemaking, the Initial Statement of Reasons (ISOR) and its addendum, and the text of the proposed regulations may be found on the State Water Board's Web site at the following address:
https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/regulations/'

November 8, 2018
Date

Jeanine Townsend
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~~s~~ 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) ~~A public water system, e~~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~~,~~ ~~consistent with Health and Safety Code section 116380(a),~~ to use POUs in lieu of centralized treatment for the purpose of ~~reducing contaminants to achieve compliance~~ 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:

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(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 POUs. 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 ~~subsection~~paragraph (a)(6), a public water system may utilize POUs in lieu of centralized treatment for the purpose of reducing contaminant~~s~~ 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 ~~subsection~~paragraph (a)(6).

A public water system's application for a permit to utilize POUs 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 ~~section~~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) ~~B~~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) ~~B~~be approved by the State Board upon determination that the proposed POU unit~~, following a review of, including but not limited to, the POU unit's~~ 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) ~~B~~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) ~~B~~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) ~~If requested by the State Board, B~~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 ~~applicable~~ 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~~ and the public water system shall obtain State Board approval of the pilot testing protocol~~. 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) ~~With~~ The State Board ~~approval, a public water system may be~~ may exempt ~~from~~a public water system from the pilot testing requirements in section 64418.2(b), or permit ~~, or be subject to,~~ a reduced level of pilot testing required pursuant to subsection (b), if:

(1) the public water system demonstrates to the State Board that the POUs 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 POUs, 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 ~~for review, and obtain State Board approval of,~~ 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 POUs are being proposed to address and how the use of POUs will achieve compliance;

(2) A description of how the public water system will determine the type, number, and location of POUs 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 POUs in lieu of centralized treatment and to take an action, such as discontinuing service, if a customer fails to accept POUs;

(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 ~~c~~Customer ~~e~~Education ~~p~~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 ~~to~~ be implemented prior to and following installation of POUs;

(7) The authority, ordinances, and/or access agreements adequate to ~~that~~ 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 ~~subsection~~paragraph (a)(2);

(8) Identification of applicable local regulatory requirements;

(9) A ~~c~~Consumer ~~n~~Notification ~~p~~Protocol designed to timely inform~~ation~~ ~~customers~~consumers, in the appropriate language(s), in the event that ~~be implemented~~

~~in the event~~ an installed POU fails to produce water that meets drinking water standards. The Consumer Notification ~~p~~Protocol shall include:

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

(B) a plan for providing~~sion of~~ an alternative water supply that~~,~~ meet~~sing~~ drinking water standards, consistent with section 64551.100 of this Title, in a quantity sufficient for daily household ingestion needs, to ~~the~~ customers served by each~~the~~ installed POU ~~not meeting drinking water standards~~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 ~~c~~Customer ~~n~~Notification ~~p~~Protocol for routine notifications that includes examples of ~~quarterly (or more frequent)~~ notices, to be provided no less frequently than quarterly, in the appropriate language(s) to inform each customer and consumer~~, that inform the customers~~:

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

(B) regarding the mechanical warning or shut-off mechanism required pursuant to ~~section~~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 ~~anticipated~~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 ~~t~~Treatment ~~s~~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 POUs, 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 ~~for review, and obtain the State Board approval of,~~ 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 POUs 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 POUs produce effluent that meets drinking water standards;

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

(4) Replacement schedules for critical components and POUs 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, POUs 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 POUs, a public water system shall revise its POU O&M Program as necessary to ensure continuous

effective treatment and that POUs 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 POUs, and as part of its permit application to use POU in lieu of centralized treatment, a~~A~~ public water system shall submit to the State Board ~~for review, and obtain State Board approval of,~~ a POU Monitoring Program sufficient to ensure that water treated by the proposed POU consistently meet drinking water standards ~~that describes monitoring to be conducted for the contaminant(s) for which the public water system has applied to use POUs~~. The POU Monitoring Program shall include the following:

(1) s~~S~~ource 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 ~~subsection~~paragraph (a)(2), annually, with one twelfth of all units sampled monthly on a rotating basis. ~~With~~

~~State Board approval and a~~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 ~~apply to the State Board~~ 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, ~~for reduced on-going monitoring~~ if all the results of the on-going monitoring conducted pursuant to ~~subsection~~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, t~~T~~he State Board may require additional monitoring for the contaminant of concern or other contaminants, including microbial contaminants, ~~based on~~if monitoring results indicate a potential~~, the~~ 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 POUs 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~~if~~ requested ~~to do so~~ 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;~~as soon as possible, but no later than 24 hours following notification of an exceedance, provide each affected customer with alternative water that meets drinking water standards,~~ and

(2) collect a confirmation sample within 72 hours of notification of the exceedance.~~; and~~

~~(A)~~ ~~i~~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~~if~~ requested ~~to do so~~ by the State Board to assess the effectiveness of the corrective actions.

NOTE: Authority cited: Sections 116271, 116350, ~~and~~ 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 ~~subsection~~paragraph (a)(2), the public water system shall submit a Public Acceptance ~~p~~Protocol to the State Board for review. The Public Acceptance Protocol must satisfy the following requirements in order to receive State Board ~~and~~ approval~~, describing the public water system's plan to meet the requirements of this section.~~:

(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~~A~~ description of the public water system's POU Treatment Strategy,~~;~~

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

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

(D) t~~T~~he estimate of any anticipated increase in water bills that may result from utilization of POUs~~;~~, and

(E) t~~T~~he 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 ~~p~~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 POUs, is less than half of the total customers~~;~~, and

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

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 when requested:

(1) Rresults of all water quality monitoring conducted pursuant to this Article;

(2) Tthe location and type of each installed POU;

(3) Tthe date and type of maintenance and repairs performed; and

(4) Vverbal 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) Mmonthly – treated water quality monitoring results;

(2) Qquarterly – source water monitoring results and any investigations and/or corrective action(s) taken to ensure POUs 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 POUs in lieu of centralized treatment shall be in violation of an MCL if:

(1) for all POUs 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 contaminants 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) ~~A public water system, e~~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, ~~consistent with Health and Safety Code section 116380(a),~~ to use POEs in lieu of centralized treatment for the purpose of ~~reducing contaminants to achieve compliance~~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 ~~subsection~~paragraph (a)(6), a public water system may utilize POEs in lieu of centralized treatment for the purpose of reducing contaminant~~s~~ 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 ~~subsection~~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 ~~section~~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) ~~B~~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) ~~B~~be approved by the State Board upon determination that the proposed POE unit~~, following a review of, including but not limited to, the POE unit's~~ 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) ~~B~~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) ~~B~~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) ~~B~~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 ~~applicable~~ 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 ~~and the public water system shall obtain State Board approval~~. 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) ~~With~~ The State Board ~~approval, a public water system may be~~ may exempt ~~froma~~ public water system from the pilot testing requirements in section 64418.2(b), or permit ~~, or be subject to,~~ 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 ~~for State Board review and obtain State Board approval of the Strategy~~. ~~At a minimum, t~~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 ~~c~~Customer ~~e~~Education ~~p~~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 ~~to~~ be implemented prior to and following installation of POEs;

(7) The authority, ordinances, and/or access agreements adequate to~~that~~ 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 ~~subsection~~paragraph (a)(2);

(8) Identification of applicable local regulatory requirements;

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

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

(B) a plan for providing~~sion of~~ an alternative water supply that~~,~~ meet~~sing~~ drinking water standards, consistent with section 64551.100 of this Title, in a quantity sufficient for daily household ingestion needs, to ~~the~~ customer~~s~~ served by ~~the~~each installed POE~~ not meeting drinking water standards~~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 ~~c~~Customer ~~n~~Notification ~~p~~Protocol for routine notifications that includes examples of ~~quarterly (or more frequent)~~ notices, to be provided no less frequently than quarterly, in the appropriate language(s)~~,~~ to inform each customer ~~that inform the customers~~:

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

(B) regarding the mechanical warning or shut-off mechanism required pursuant to ~~section~~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 ~~anticipated~~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 ~~t~~Treatment ~~s~~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 ~~for State Board review and obtain State Board approval of the 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~~A~~ public water system shall submit to the State Board ~~for review, and obtain State Board approval of,~~ a POE Monitoring Program sufficient to ensure that water treated by the proposed POE consistently meet drinking water standards ~~that describes monitoring to be conducted for the contaminant(s) for which the public water system has applied to use POEUs, as follows~~. The POE Monitoring Program shall include the following:

(1) s~~S~~ource 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 ~~subsection~~paragraph (a)(2), annually, with one twelfth of all units sampled monthly on a rotating basis. ~~With~~

~~State Board approval and a~~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 ~~apply to the State Board~~ 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, ~~for reduced on-going monitoring~~ if all the results of the on-going monitoring conducted pursuant to ~~subsection~~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, ~~based on~~if monitoring results indicate a potential~~, the~~ 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~~if~~ requested ~~to do so~~ 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;~~as soon as possible, but no later than 24 hours following notification of an exceedance, provide each affected customer with alternative water that meets drinking water standards,~~ and

(2) collect a confirmation sample within 72 hours of notification of the exceedance.~~; and~~

~~(A) i~~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~~if~~ requested ~~to do so~~ by the State Board to assess the effectiveness of the corrective actions.

NOTE: Authority cited: Sections 116271, 116350, ~~and~~ 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 ~~p~~Protocol, to the State Board for review. The Public Acceptance Protocol must satisfy the following requirements in order to receive State Board ~~and~~ approval~~, describing the public water system's plan to meet the requirements of this section.~~:

(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~~A~~ description of the public water system's POE Treatment Strategy,~~;~~

(B) t~~T~~he 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,~~; and~~

(D) t~~T~~he estimate of any anticipated increase in water bills that may result from utilization of POEs~~;~~, and

(E) t~~T~~he 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 ~~p~~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 when requested:

(1) Rresults of all water quality monitoring conducted pursuant to this Article;

(2) Tthe location and type of each installed POE;

(3) Tthe date and type of maintenance and repairs performed; and

(4) Vverbal 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) Mmonthly – treated water quality monitoring results;

(2) Qquarterly – 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.

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INITIAL STATEMENT OF REASONS – ADDENDUM
Point-of-Use and Point-of-Entry Regulations
Title 22, California Code of Regulations

CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 22, DIVISION 4, CHAPTER 15, ARTICLE 2.5 (POINT-OF-USE TREATMENT)

Section 64418.3, POU Treatment Strategy.

Utilizing point-of-use (POU) devices in lieu of centralized treatment raises a number of issues—including multiple points of treatment and compliance and access to consumers' homes for installation, monitoring, and maintenance—that must be carefully considered prior to implementation. Specifically, these issues include whether the POU devices will address the contaminant(s) of concern; whether the POU devices will be installed in a manner to serve all users of the water; whether the public water system (PWS) has sufficient authority to require customers to accept POU devices; the basis for the particular POU selections; whether POU devices will be installed, operated, maintained, and tested correctly; whether the customers will be appropriately educated about the devices and informed of device failures; whether the PWS has sufficient authority to access homes and businesses to install, operate, and maintain the POU devices; whether appropriate schedules for use of the devices in anticipation of centralized treatment have been developed; and how the water system will address customers who will not voluntarily allow installation of POU devices.

To ensure a PWS has considered and addressed such concerns, section 64418.3 requires a PWS to develop a POU Treatment Strategy and to submit the Strategy for review and approval by the State Water Resources Control Board (State Water Board). Subsection (a) includes elements to be considered as part of a POU Treatment Strategy, including a description of the compliance problem to be addressed, the type of POU to be installed, the POU selection process, employee qualifications, mandated customer use, legal obligations and authority limitations, customer education and consumer notification, and milestone scheduling. These elements are needed to ensure careful consideration of the issues described above prior to implementing a POU treatment program. Subsection (b) is needed to explicitly require the PWS to comply with the most current, State Water Board approved version of the POU Treatment Strategy.

A description and rationale of each particular element of the POU Treatment Strategy, and the rationale behind and rationale for each provision, is set forth below:

- Proposed paragraph 64418.3(a)(1) requires a PWS to provide a description of compliance issues (*i.e.*, identify which drinking water standards are not being met) for which POUs are being proposed and how the use of POUs will achieve compliance. Health and Safety Code section 116380 requires the State Water Board to limit the proposed regulations to usage not prohibited by the federal

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State Drinking Water Act (SDWA) or its implementing regulations and guidance. Title 40 of the Code of Federal Regulations (40 CFR) section 142.62(h)(3) requires that "[t]*he public water system must apply effective technology under a State-approved plan*". The identification of compliance issues is necessary to determine whether these issues can be effectively addressed using the proposed POUs.

- Proposed paragraph 64418.3(a)(2) requires a PWS to provide a description of type, number, and location of POUs to ensure a sufficient number of devices are installed that all end users receive safe water. Health and Safety Code section 116380 requires the State Water Board to limit the proposed regulations to usage not prohibited by the federal SDWA or its implementing regulations and guidance. 40 CFR 42.62(h)(6) requires that "[t]*he State must be assured that buildings connected to the system have sufficient point-of-use or point-of-entry devices that are properly installed, maintained, and monitored such that all consumers will be protected.*" A description of the type, number, and location of POU devices is necessary to evaluate compliance with federal requirements and whether implementation of the proposed POU Treatment Strategy would ensure buildings and dwellings connected to the PWS have sufficient devices installed such that all consumers receive water that consistently meets drinking water standards.

- Proposed paragraph 64418.3(a)(3) requires a PWS to have authority to require customers to accept POUs in lieu of centralized treatment and to take an action, such as discontinuing service, if a customer fails to accept POUs. The U.S. Environmental Protection Agency (U.S. EPA) guidance manual titled "Point-of-Use or Point-of-Entry Treatment Options for Small Drinking Water Systems" (U.S. EPA, April 2006, EPA 815-R-06-010) includes the following language in its model ordinance: "[t]*he Water Supplier may terminate, after notice and opportunity for a hearing, the water service of any Customer who: - Fails or refuses to allow the installation of treatment units as required by this Ordinance…*". 40 CFR 142.62(h)(6) requires that "[t]*he State must be assured that buildings connected to the system have sufficient point-of-use or point-of-entry devices that are properly installed, maintained, and monitored such that all consumers will be protected*". The PWS's authority to require customers to accept POUs is necessary to comply with these federal regulations and to ensure all consumers are protected through the provision of water meeting drinking water standards.

- Proposed paragraph 64418.3(a)(4) requires a PWS to provide the basis for the POU selections. Health and Safety Code section 116380 requires the State Water Board to limit the proposed regulations to usage not prohibited by the federal SDWA or its implementing regulations and guidance. 40 CFR 142.62(h)(3) requires that a PWS "*must apply effective technology under a State-approved plan*". It is necessary for a PWS to provide the basis for its POU

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selection to demonstrate that it will be reliable and effective for its intended use.

- Proposed paragraph 64418.3(a)(5) requires a PWS to include in the POU Treatment Strategy the qualifications and identification of the person(s) responsible for POU installation, operation, maintenance, and water quality sampling and analyses. Health and Safety Code section 116380 requires the State Water Board to limit the proposed regulations to usage not prohibited by the federal SDWA or its implementing regulations and guidance. In addition, 42 United States Code (U.S.C.) section 300g-1(b)(4)(E)(II) requires that "[p]*oint-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance*." 40 CFR 142.65, Table B, footnote b, requires that "[w]*hen POU devices are used for compliance, programs for long-term operation, maintenance, and monitoring must be provided by water utility to ensure proper performance*." Lastly, 40 CFR 142.62(h)(2) requires that "[b]*efore point-of-use or point-of-entry devices are installed, the PWS must obtain the approval of a monitoring plan which ensures that the devices provide health protection equivalent to that provided by central water treatment*." The qualifications and identification of personnel responsible for installation, operation, maintenance, sampling, and analysis are necessary to evaluate compliance with federal requirements and whether implementation of the proposed POU Treatment Strategy would ensure continuous, uninterrupted provision of water meeting drinking water standards.

- Proposed paragraph 64418.3(a)(6) requires a PWS to include a Customer Education Program designed to reach all customers, and to be implemented prior to and following installation of POUs. 40 CFR 142.65, Table B, footnote b, requires that "[w]*hen POU devices are used for compliance, programs for long-term operation, maintenance, and monitoring must be provided by water utility to ensure proper performance*". A Customer Education Program to obtain and maintain customer participation is necessary for a PWS to be in compliance with drinking water standards as POU devices are located inside homes, require access by the PWS for installation, monitoring, and maintenance, and, unlike centralized treatment, provide water meeting drinking water standards only at taps with properly installed and maintained treatment devices.

- Proposed paragraph 64418.3(a)(7) requires a PWS to identify adequate authority, ordinances, and/or access agreements to customers' premises for POU installation, maintenance, and water quality monitoring. Health and Safety Code section 116380 requires the State Water Board to limit the proposed regulations to usage not prohibited by the federal SDWA or its implementing regulations and guidance. In addition, 40 CFR 142.62(h)(6) requires that "[t]*he State must be assured that buildings connected to the system have sufficient point-of-use and/or point-of-entry devices that are properly installed, maintained, and monitored such that all consumers will be protected*". 40 CFR 142.65,

Table B, footnote b, also requires that "[w]*hen POU devices are used for compliance, programs for long-term operation, maintenance, and monitoring must be provided by water utility to ensure proper performance*". Identification of access agreements and authority is necessary to evaluate compliance with federal requirements and whether implementation of the proposed POU Treatment Strategy would ensure access for installation, maintenance, and monitoring to continuously provide water meeting drinking water standards.

- Proposed paragraph 64418.3(a)(8) requires a PWS to include in the POU Treatment Strategy the identification of applicable local regulatory requirements. Health and Safety Code section 116380 requires the State Water Board to limit the proposed regulations to usage not prohibited by the federal SDWA or its implementing regulations and guidance. U.S. EPA's "Point-of-Use or Point-of-Entry Treatment Options for Small Drinking Water Systems" guidance manual cautions that a PWS "*should check with State and local regulatory agencies to determine if any State or local regulations exists for POU and POE devices. State and local regulations could exist that would preclude the use of some or all POU or POE devices*." It is necessary for a PWS to identify applicable local regulatory requirements to evaluate compliance with federal requirements and whether implementation of the proposed POU Treatment Strategy would ensure that the use of POU devices, as a means of complying with drinking water standards, is a viable, effective option.

- Proposed subparagraphs 64418.3(a)(9)(A) and (B) requires a PWS to include a Consumer Notification Protocol with a plan for timely provision of information and a sufficient quantity of water meeting drinking water standards in the event an installed POU fails to produce water that meets drinking water standards. Timing of alternative water supply provisions would be based on the type of health risk posed by the contaminant not meeting a drinking water standard, with acute risks requiring provision of an alternative water supply within 24 hours and chronic risks requiring provision of an alternative water supply within 7 days. Consumer notification is necessary to ensure that consumers are aware when a POU device is not producing water meeting drinking water standards. Consistent with 22 CCR 64551.100. Waivers and Alternatives, a plan for providing an alternative water supply is necessary to ensure that consumers are not left without an adequate supply of drinking water meeting regulatory standards for an unreasonable amount of time.

- Proposed subparagraphs 64418.3(a)(10)(A) and (B) requires a PWS to provide a Customer Notification Protocol for routine notifications, to be provided no less frequently than quarterly, reminding customers that only the taps for which POU devices are installed provide water meeting drinking water standards and providing information regarding the mechanical warning or shut-off mechanism, and how to contact the PWS. The Customer Notification Protocol is necessary to ensure that, despite changes in ownership or occupancy, customers and

ED_002551_00004476-00042

consumers continue to be aware of the limitations regarding their drinking water and the need to notify the PWS if the mechanical warning or shut-off mechanism is triggered.

- Proposed subparagraphs 64418.3(a)(11)(A) through (E) requires a PWS to provide proposed schedules for distribution of public hearing information, the public hearing, distribution of POU acceptance surveys, POU installation, and construction of centralized treatment. Health and Safety Code section 116552 requires that "[t]*he State Water Resources Control Board shall not issue a permit to a public water system or amend a valid existing permit to allow the use of point-of-use or point-of-entry treatment unless the State Water Resources Control Board determines, after conducting a public hearing in the community served by the public water system, that there is no substantial community opposition to the installation of the treatment devices. The issuance of a permit pursuant to this section shall be limited to not more than three years or until funding for centralized treatment is available, whichever occurs first*". Provision of schedules for public hearing timelines and eventual construction of centralized treatment is necessary to evaluate compliance with federal requirements and whether implementation of the proposed POU Treatment Strategy would ensure that the PWS complies with the public hearing requirement, and that the planned schedule for centralized treatment is consistent.

- Proposed paragraph 64418.3(a)(12) requires a PWS to provide an estimate of the percentage of customers who are expected to voluntarily allow installation, as well as a description of how it will address those who are not. 40 CFR 142.62(h)(6) requires that "[t]*he State must be assured that buildings connected to the system have sufficient point-of-use or point-of-entry devices that are properly installed, maintained, and monitored such that all consumers will be protected.*" Full customer participation is necessary for a PWS to be in compliance with drinking water standards. An estimate of how much of the customer base is expected to voluntarily participate and a plan for addressing those who are unlikely to participate voluntarily is necessary for the PWS to obtain full participation and assure that all consumers will be protected with the installation and use of POU devices.

Section 64418.7, Recordkeeping and Reporting.

Section 64418.7 establishes recordkeeping and reporting requirements for a PWS utilizing POU devices. Subsection (a) requires a PWS to maintain, and make available to the State Water Board upon request, the records described in paragraphs (1) through (4) for a period of no less than ten years. The ten-year timeframe is consistent with other recordkeeping requirements, including those set forth in 22 CCR sections 64470 for domestic water quality monitoring and sanitary survey communications; 64259 for local primacy agency technical reports, permits, sanitary surveys, and water quality analyses; 64554 for maximum day demand calculations; 64980.80 for lead and copper

ED_002551_00004476-00043