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## State Water Resources Control Board

### **NOTICE OF PROPOSED RULEMAKING**

**TITLE 22. Social Security  
DIVISION 4. Environmental Health  
CHAPTER 15 – Domestic Water Quality and Monitoring Regulations  
CHAPTER 15.5 – Disinfectant Residuals, Disinfection Byproducts and  
Disinfection Byproduct Precursors  
CHAPTER 17 – Surface Water Treatment**

**SUBJECT: REVISED TOTAL COLIFORM RULE (SBDDW-20-002)**

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

**NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF A REVISED TOTAL COLIFORM RULE**

(Gov. Code, §11346.5(a)(1))

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

**DATE: December 17, 2020**

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

**Video and Teleconference Participation**

As a result of the COVID-19 emergency and the Governor's Executive Orders to protect public health by limiting public gatherings and requiring social distancing, this meeting is scheduled at this time to occur via remote presence. The hearing will be recorded and will be webcast at <https://video.calepa.ca.gov/>.

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

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

For those who wish to make oral comments, additional information about participating telephonically or via the remote meeting solution is available here:

[https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/Regulations.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Regulations.html)

While a quorum of the State Water Board may be present, this hearing is for the public to provide comments in accordance with the APA. The Board will not take formal action. Final regulations are expected to be adopted by the Board later this year, after consideration of all written and oral comments. Additional information regarding State Water Board meetings, hearings, and workshops is available on the Board's Internet web page at [Board Meeting Information](https://www.waterboards.ca.gov/board_info/calendar/) [https://www.waterboards.ca.gov/board\\_info/calendar/](https://www.waterboards.ca.gov/board_info/calendar/).

#### Special Accommodation Request

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

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

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

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

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

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

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

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

Any interested person, or their representative, may submit written comments relevant to the proposed regulatory action to the Clerk to the State Water Board. Any written

comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Clerk to the State Water Board by **12:00 p.m. noon, December 18, 2020**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov). The State Water Board requests but does not require that email transmission of comments, particularly those with attachments, contain the regulation package identifier "SBDDW-20-002" in the subject line to facilitate timely identification and review of the comment;
2. By fax transmission to: (916) 341-5620. The State Water Board requests but does not require that faxed comments contain the subject line "SBDDW-20-002";
3. By mail to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, P.O. Box 997377, MS 7400, Sacramento, CA 95899-7377; or
4. Hand-delivered to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, 1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814.

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

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

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

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

#### **AUTHORITY AND REFERENCE**

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

The State Water Board proposes to adopt this regulation under the authority granted by Health and Safety Code (HSC) sections 116271, 116350, and 116375. It is implementing, interpreting, or making more specific HSC sections 116275, 116325, 116350, 116365, 116370, 116375, 116385, 116390, 116400, 116430, 116450, 116460, 116470, 116525, 116530, 116540, 116550, 116555, and 116735.

## **INFORMATIVE DIGEST**

(Gov. Code, §11346.5(a)(3))

### Existing Laws and Regulations (Gov. Code §11346.5(a)(3)(A))

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

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

On February 13, 2013, the U.S. EPA promulgated the Revisions to the Total Coliform Rule (aka Revised Total Coliform Rule) (RTCR) (78 Fed. Reg. 10270; amended Feb. 26, 2014, 79 Fed. Reg. 10665), as required by the Safe Drinking Water Act Amendments of 1996. Minor corrections took effect April 28, 2014, with the more significant revisions taking effect on April 1, 2016. The federal RTCR applies to public water systems and increases public health protection through the reduction of potential pathways of entry for fecal contamination into distribution systems and builds on the federal Total Coliform Rule (TCR) to protect public health by ensuring the integrity of the drinking water distribution system and monitoring for the presence of microbial contamination. With limited exceptions, public water systems have been required to comply with the federal RTCR since April 1, 2016. Since then, California public water systems have been working to comply with both the federal RTCR, subject to federal enforcement, and California’s existing bacteriological quality regulations. California currently has adopted the necessary regulations and gained primacy for the federal TCR and is proposing to do the same for the federal RTCR.

### Effect of Proposed Rulemaking (Gov. Code §11346.5(a)(3)(A))

The key provisions of the federal RTCR include:

- Establishing a maximum contaminant level (MCL) for *Escherichia coli* (*E. coli*) for protection against potential fecal contamination;
- Specifying best available technologies for *E. coli*;
- Specifying public notification health effects language for public water systems violating the *E. coli* MCL;

- Specifying public notification health effects language for public water systems with corrective action violations and/or undergoing a total coliform or *E. coli* assessment;
- Setting a coliform treatment technique requirement;
- Establishing requirements for monitoring total coliforms and *E. coli* according to a bacteriological sample siting plan and schedule specific to the public water system;
- Establishing provisions allowing public water systems to transition to the federal RTCR using their existing TCR monitoring frequency, including public water systems on reduced monitoring under the existing TCR;
- Establishing requirements for seasonal systems to monitor and certify the completion of a state-approved start-up procedures;
- Establishing requirements for assessments and corrective action when monitoring results show that public water systems may be vulnerable to contamination;
- Establishing public notification requirements and health effects language for public water systems that experience a total coliform or *E. coli* assessment and/or corrective action violation;
- Specifying language for public water systems to include in Consumer Confidence Reports when total coliforms or *E. coli* are detected; and
- Specifying language for community water systems to include in their Consumer Confidence Reports when they must conduct an assessment or if they incur an *E. coli* MCL violation.

The proposed regulations also include a 2010 federal Long-Term 2 Enhanced Surface Water Treatment Rule alternative *E. coli* concentration to trigger *Cryptosporidium* monitoring.

In addition to incorporating required elements of the federal RTCR in order to retain primacy, the proposed regulations also include provisions beyond those contained in the U.S. EPA RTCR. These additional provisions are designed to provide additional protection of public health. Significant differences in the proposed state-only RTCR requirements include:

- Requirements for bacteriological monitoring of a groundwater (not Groundwater Under the Direct Influence of Surface Water) source that is continuously disinfected and for revising bacteriological sample siting plans to include the source sample sites;
- Requirements for public water systems on reduced bacteriological monitoring to return to routine bacteriological monitoring;
- Requirements for coliform density determinations of total coliforms and *E. coli*, if directed by the State Water Board;

- For public water systems collecting one sample per month, eliminating the need to submit a monthly summary of a bacteriological monitoring result, and clarifying the minimum monthly summary elements for public water systems collecting more than one sample per month;
- Requirements for a report and corrective action when monitoring results indicate a possible significant rise in bacterial count; and
- Requirements for seasonal system start-up procedure components; actions to be taken prior to serving water to the public; and a provision allowing an alternative to certain start-up procedure components.

None of the proposed amendments would affect California's primacy status, because the net effect of these amendments is that the state's regulation would be more stringent than the federal RTCR, consistent with section 116270(f) of the Health and Safety Code.

Comparable Federal Statute and Regulations (Gov. Code §11346.5(a)(3)(B))

Federal laws and regulations require that California, in order to receive and maintain primacy, promulgate regulations that are no less stringent than the federal regulations. HSC section 116270(f) states California's legislative intent to improve upon minimum requirements of the federal Safe Drinking Water Act and to establish a program that is more protective of public health than the minimum federal requirements. The State Water Board is proposing additional requirements beyond the U.S. EPA's RTCR requirements set forth in 78 Federal Register 10270 (February 13, 2013, Vol. 78, No. 30), 79 Federal Register 10665 (February 26, 2014, Vol. 79, No. 38), and 40 Code of Federal Regulations (CFR) 141.2; 141.4(a) and (b); 141.21(h); 141.52(a)(1) through (6); 141.52(b); 141.63(a)(2) and (b) through (f); 141.71(b); 141.74(b) and (c); 141.132(c); 141.153(c), (d), and (h); 141.202(a); 141.203(b), 141.204(a); 141.402(a); 141.405(b); 141.803(a); 141.851(a) through (e); 141.852(a) through (c); 141.853(a) through (c); 141.854(a) through (j); 141.855(a) through (f); 141.856(a) through (c); 141.857(a) through (d); 141.858(a) and (b); 141.859(a) through (d); 141.860(a) through (d); 141.861(a) and (b); 142.14(a); 142.15(c); 142.16(q); and 142.63(b).

The proposed regulations establish and clarify requirements that are in addition to the federal RTCR, which are known as state-only requirements. The substantive portions of the proposed regulations

(a) establish requirements for bacteriological monitoring, bacteriological reporting, and bacteriological sample siting plans;

(b) establish requirements for documentation on trained personnel (sample collector/field tester), public water system notification procedures, seasonal system start-up procedures; clarify population basis for determining the minimum number of routine bacteriological samples required; and clarify the basis for bacteriological reporting (service connections vs. population);

(c) establish requirements for increased bacteriological monitoring of groundwater sources, requests and contents of requests, coliform density determination (if directed

by the State Water Board), and Significant Rise in Bacterial Count (SRBC) report and notification; and eliminate a need for Bacteriological Sample Siting Plan update due to personnel changes; and

(d) establish requirements for definitions, bacteriological sample siting plans, an alternative basis for determining the number of routine bacteriological samples required, an SRBC investigation, seasonal systems (water quality reporting, State Water Board approval, and an alternative approach to the seasonal system start-up procedure); and clarify bacteriological reporting requirements.

Specific differences are described in further detail in the Initial Statement of Reasons and Cost Estimating Methodology.

#### Policy Statement Overview (Gov. Code, §11346.5(a)(3)(C))

To maintain primary enforcement authority over the federal RTCR, the State Water Board proposes to adopt regulations substantially conforming to the federal regulations while also organizing and wording the regulations to maintain consistency with existing state regulations and referencing state regulations for clarity. The revisions also provide updates to other provisions in State regulations that reference analytical methods and other requirements in the RTCR (e.g., Public Notification and Ground Water Rules); improve upon the public health protection afforded through compliance with federal requirements with additional state-only requirements for monitoring, reporting, and seasonal system start-up requirements; and clarification and other nonsubstantive corrections to existing regulations.

#### Objectives

Broad objectives of this proposed regulatory action are to:

- Provide the public with increased protection against microbial pathogens in drinking water served by public water systems;
- Protect public health by ensuring the integrity of the drinking water distribution system and monitoring for the presence of microbial contamination; and
- Maintain primary enforcement authority (“primacy”) through the adoption of drinking water regulations no less stringent than those promulgated by U.S. EPA.

#### Benefits

The proposed regulatory action is expected to improve public health and safety through the following:

- Establishing a health goal and Maximum Contaminant Level (MCL) for *E. coli*;
- Establishing a treatment technique for total coliform bacteria, requiring PWS to find and correct sanitary defects in the drinking water distribution system that may lead to microbial contamination;
- Increasing oversight of seasonally operated water systems in the form of minimum start-up procedures, PWS submittal of bacteriological and disinfection monitoring results, and required State Water Board approval;

- Requiring additional bacteriological samples to provide more information about the distribution system and water sources as a whole and help to evaluate if there is a serious problem in an area of the distribution system that may pose a significant risk to consumers; and
- Improving upon the federal RTCR requirements by requiring more frequent and more specific monitoring to provide more information on source contamination and determination of any data trends.

Additional anticipated benefits include:

- Improved clarity of requirements through increased specificity and reduced redundancy;
- Enhanced public awareness of water quality served by requiring public notification when an *E. coli* MCL violation occurs, and when a PWS fails to conduct a required assessment or corrective action to prevent microbial contamination; and
- Improved clarity and understanding of existing regulations regarding a significant rise in bacterial count.

Evaluation as to Whether the Proposed Regulations are Inconsistent or Incompatible with Existing State Regulations  
(Gov. Code, §11346.5(a)(3)(D))

The State Water Board reviewed its existing general regulations and regulations specific to coliform organisms in drinking water to evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. It was determined that no other state regulation addressed the same subject matter and that this proposal, if adopted, would not be inconsistent or incompatible with other existing state regulations.

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

California Environmental Quality Act

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

Scientific Peer Review (Health and Safety Code, §57004(b))

Health and Safety Code subsection 57004(b) requires that the scientific portions of any regulation proposed by the California Environmental Protection Agency (Cal/EPA), or any board, department or office within Cal/EPA, be submitted to an external scientific peer review entity for evaluation. “Scientific basis” or “scientific portion” is defined as “those foundations of a rule that are premised upon, or derived from empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.” Where there is no underlying scientific basis for the proposed rule, no peer review is



required. Similarly, where the underlying scientific basis for the proposed rule has already been peer reviewed, additional peer review is not required. CalEPA's *Unified California Environmental Protection Agency Policy and Guiding Principles for External Scientific Peer Review*, March 13, 1998 (CalEPA Guiding Principles) recognizes that external scientific peer review processes are not warranted where there are no underlying scientific bases at issue, or where the underlying scientific basis has already undergone review.

The RTCR revises the existing TCR which was established by the U.S. EPA in 1989. The revisions do not change the fundamental approach for monitoring and maintaining the microbiological quality of the drinking water supply. The RTCR more clearly establishes operational requirements that public water systems evaluate and maintain the microbiological quality of the water supplied to the public. The RTCR establishes incentives for public water systems to correct any microbiological quality issues promptly thereby avoiding technical violations that were the focus of the 1989 TCR. The RTCR more clearly defines the framework of the investigation process by basing violations not only on the sample results but also on the adequacy and timeliness of the investigation and corrective action taken by the public water system to fix the underlying problem. The RTCR is primarily a shift in policy and approach based on the experience gained from the TCR nationwide since 1989. The proposed revisions, therefore, do not have a "scientific basis" or "scientific portion" to submit to any such review.

#### Safe, Clean, Affordable Water (California Water Code, §106.3)

California Water Code section 106.3 states that it is the policy of the state that every human has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes. In preparing the proposed regulations, the State Water Board determined the proposed regulations are consistent with this statewide policy. While the proposed regulations may result in increased costs to those served by a PWS, that potential cost is expected to render water neither unaffordable nor inaccessible and is outweighed by the increased public health benefits of improved public notification and information, provision of more representative bacteriological monitoring data resulting from site-specific total coliforms and *E. coli* sampling plans, increased emphasis on corrective actions, increased knowledge of bacteriological conditions to allow timely health-protective responses, and assurances of proper seasonal system start-up practices.

#### Pre-Notice Meeting with Affected Parties (Gov. Code 11346.45(a))

Government Code subsection 11346.45(a) requires that prior to publication of the notice of proposed action, the agency proposing the regulation must involve parties who would be subject to the proposed regulations in public discussions, when the proposed regulations involve complex proposals or a large number of proposals that cannot be easily reviewed during the comment period. The regulations proposed here are neither complex nor involve large numbers of proposals that could not be easily reviewed during the comment period. To the extent they are complex, the bulk of the proposed regulations are federal requirements that have been in effect and enforceable by U.S. EPA since April 2016, for which regulated entities have had ample time to consider

and review. Nonetheless, the State Water Board did provide PWS and water consumers opportunities to be involved in public discussions about the proposed regulations, including the February 3, 2017 release of draft California Revised Total Coliform Regulations, and the State Water Board workshop presentations made on February 23, 24, and 28, 2017 and March 17, 29, and 30, 2017, in Bakersfield, Fresno, Garden Grove, San Jose, Sacramento, and Redding, respectively. In addition, staff of the State Water Board's Division of Drinking Water frequently provide regulatory updates to PWS, including the status of the proposed Revised Total Coliform Rule.

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

The proposed regulations would not impose a mandate on local agencies or school districts that requires state reimbursement. The proposed regulations implement a federal mandate for which the regulated community must comply, regardless of the adoption of this regulation, and establishes and clarifies requirements that are in addition to the federal RTCR and are known as state-only requirements. The proposed regulations will not be a requirement unique to local government and will apply equally to public and private water systems.

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

**FISCAL IMPACT ESTIMATE—Direct and Indirect Costs** (Gov. Code, §11346.5(a)(6))  
(as detailed in the Cost Estimating Methodology in the Initial Statement of Reasons)

Estimated Fiscal Impact on Local Agency or School District

\$121,000 annually, plus one-time costs of \$26,000, which are not reimbursable by the State pursuant to Article XIII B, section 6 of the California Constitution.

Estimated Fiscal Impact on State Government

\$5,500 annually, plus one-time costs of \$2,300, which are anticipated to be absorbable by State agencies within their existing budgets. The State Water Board estimates that there will be no change to the Drinking Water Program's Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under HSC 116565, 116577, 116585, and 116590.

Estimated Fiscal Impact on Federal Funding of State Programs

None.

Other Non-discretionary Cost or Savings Imposed on Local Agencies

None.

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

None.

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

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

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

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

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

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

No reporting is required of businesses, but reporting of monitoring results would continue to be required of the PWS. Such reporting is necessary for the health, safety, and welfare of the people of the state to ensure compliance with the regulations. The State Water Board recognizes that monitoring and reporting costs would likely be passed on to a PWS’s customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT**

(Gov. Code, §11346.5(a)(10); §11346.3(b)(1))

The State Water Board has determined that the economic impact of the proposed regulations would be approximately \$4.2 million statewide over the course of 20 years, would not exceed \$50 million in a 12-month period, and that the regulations would not therefore be considered a Major Regulation as defined by CCR, Title 1, Division 3, Chapter 1, subsection 2000(g).

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

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

The proposed regulations would incorporate and build on the federal RTCR to enhance and protect public health and welfare through improved monitoring for the presence of microbial contamination in groundwater sources and the distribution system, investigation and response to microbial contamination, and ensured integrity of drinking water distribution systems, thereby facilitating increased protection of public health for California residents.

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

(Gov. Code, §11346.5(a)(9))

The State Water Board is not aware of any direct cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Indirect economic impact will likely occur due to PWS passing on costs of compliance to customers, which may include private persons or businesses. Indirect cost impacts are estimated within Standard Form 399.

For the PWS potentially subject to increased costs under the proposed regulation, the total average annual cost for all of these systems is estimated at \$209,000, plus a one-time initial cost for bacteriological sample siting plans of \$63,000. For the average individual PWS affected by the proposed regulations, depending on which specific regulations apply, cost impacts may include an approximately \$622 annual cost increase due to raw water bacteriological monitoring, a \$24.30 annual cost decrease due to monthly coliform summary relief, a one-time additional cost of \$103, or a combination of any of these three.

For individuals served by one of these PWS, depending on which regulations apply, cost impacts may include an approximately \$0.16 annual cost increase relative to raw water bacteriological monitoring, a \$0.40 annual cost decrease relative to monthly coliform summary relief, a one-time additional cost of \$0.03, or a combination of any of these three.

### **BUSINESS REPORT** (Gov. Code, §11346.5(a)(11); §11346.3(d))

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

water systems with less than 1,000 persons served that are using groundwater, any costs for the reporting are already included in the estimate for the monitoring. To the extent that public water systems may be considered businesses, reporting of monitoring is necessary for health, safety, or welfare of the people of the state.

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

The proposed regulation directly impacts public drinking water systems. PWS are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, paragraph 11342.610(b)(8), are specifically excluded from the definition of “small business”. However, the State Water Board recognizes that a small number of the identified PWS likely provide water solely to businesses and that PWS often provide water to businesses in addition to residences. The State Water Board also recognizes that costs for monitoring would likely be passed on to a water system’s customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation. Similarly, no reporting is required of businesses, but reporting of monitoring results would be required of a PWS, and such reporting is necessary for the health, safety, or welfare of the people of the state. Reporting costs were considered as part of the monitoring costs.

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

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

The State Water Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be

- (1) more effective in carrying out the purpose for which the action is proposed,
- (2) as effective and less burdensome to affected private persons than the proposed action, or
- (3) more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The State Water Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

**FORMS OR DOCUMENTS INCORPORATED BY REFERENCE**  
(CCR Title 1, Div. 1, Ch. 1, §20(c)(3))

The following documents are incorporated by reference in the regulations as it would be too cumbersome, unduly expensive, or impractical to publish these documents into regulation.

1. 40 Code of Federal Regulations section 141.23 through 141.41, 141.66, and 141.89, Code of Federal Regulations – Annual Edition, July 1, 2019 edition.
2. 40 Code of Federal Regulations sections 141.402, 141.405, 141.852, and 141.853(c) (78 Fed. Reg. 10270 (February 13, 2013), “National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule.”
3. 40 Code of Federal Regulations section 141.852 (79 Fed. Reg. 10665 (February 26, 2014), “National Primary Drinking Water Regulations: Minor Correction to the Revisions to the Total Coliform Rule.”
4. Drinking Water Source Assessment and Protection (DWSAP) Program, California Department of Health Services, Division of Drinking Water and Environmental Management, January 1999, including Revisions 1 (dated April 1999) and 2 (dated January 2000).

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

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

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

In the event Melissa Hall is not available, please contact:

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

**Please identify the action by using the State Water Board regulation package identifier, “SBDDW-20-002: Revised Total Coliform Rule” in any inquiries or written comments.**

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

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

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

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

**AVAILABILITY OF FINAL STATEMENT OF REASONS**

(Gov. Code, §11346.5(a)(19))


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

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

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

Materials regarding the action described in this notice (including this public notice, the regulation text, and the Initial Statement of Reasons) are available via the Internet and may be accessed in the links within the announcements section from the Division of Drinking Water's Revised Total Coliform Rule Internet Web page at [https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/rtrcr.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/rtrcr.html)

October 29, 2020  
\_\_\_\_\_  
Date

  
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Jeanine Townsend  
Clerk to the Board