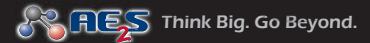


# The Update

April 2011



## Perchlorate to Become a Regulated Contaminant

**T**he US Environmental Protection Agency (USEPA) has determined perchlorate meets the Safe Drinking Water Act's (SDWA) criteria for regulating a contaminant because of potential adverse health effects to humans. The decision reverses a determination originally made in 2008.

The new determination does not immediately impose any requirements whatsoever on public water systems (PWSs). Rather, the USEPA will begin the process of proposing a national primary drinking water regulation (NPDWR) for perchlorate. The USEPA plans to publish a proposed regulation within two years and expects a final regulation 18 months thereafter. The USEPA released an Interim Health Advisory in January 2009 for perchlorate to assist state and local officials with evaluating local perchlorate contamination in drinking water, while simultaneously performing its assessment of how to reduce risks through development of a NPDWR. Based on a study conducted by the National Research Council (NRC) of the National Academy of Sciences (NAS), an interim health advisory level of 15 micrograms per liter ( $\mu\text{g}/\text{l}$ ) has been recommended.

While there is limited information on how perchlorate makes its way to ambient water, the Agency for Toxic Substances and Disease Registry (ATSDR) speculates that perchlorate

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**O**n March 16, 2011, the USEPA Office of Water sent a memorandum to its ten Regional Administrators entitled, "Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions." The purpose of the correspondence is to reaffirm

## USEPA Addressing Phosphorus and Nitrogen Pollution

"USEPA's commitment to partnering with states and collaborating with stakeholders to make greater progress in accelerating the reduction of nitrogen and phosphorus loadings to our nation's waters." The memorandum combines key principles that have guided Agency technical assistance and collaboration with states. It also urges the Regions to place new emphasis on working with states to achieve near-term reductions in nutrient loadings. To accomplish this, the "Recommended Elements of a State Framework for Managing Nitrogen and Phosphorus Pollution" have been set forth. They are paraphrased as follows:

1. Prioritize watersheds on a statewide basis for nitrogen and phosphorus loading reductions.
2. Set watershed load reduction goals based upon best available information (Numeric Nutrient Standards).
3. Ensure effectiveness of point source permits in targeted/priority sub-watersheds for: Municipal and Industrial Wastewater Treatment Facilities that contribute to significant measurable Nitrogen (N) and Phosphorus (P) loadings; all Concentrated Animal Feeding Operations (CAFOs) that discharge or propose to discharge; and/or Urban Stormwater sources that discharge into N- and P- impaired waters or are otherwise identified as a significant source.
4. Develop watershed-scale plans that target the most effective practices where they are needed most in partnership with federal and state Agricultural partners, Non Governmental Organizations (NGOs), private sector partners, landowners, and other stakeholders. Look for opportunities to include innovative approaches, such as targeted stewardship incentives, certainty agreements, and N and P markets, to accelerate adoption of agricultural conservation practices; and incorporate lessons learned from other successful agricultural initiatives in other parts of the country.
5. Identify how the state will use state, county, and local government tools to assure N and P reductions from developed communities not covered by the Municipal Separate Storm Sewer Systems (MS4) program, including an evaluation of minimum criteria for septic systems, use of low impact development/green infrastructure approaches, and/or limits on phosphorus in detergents and lawn fertilizers.
6. Develop accountability and verification measures to assure reductions will occur, verify that load reduction practices are in place, and assess/demonstrate progress in implementing and maintaining management activities and achieving load reduction goals.

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# The Update

REGULATORY COMPLIANCE

If you have any questions concerning the content of this newsletter, please contact Judel Buls, at 406-250-5666 or Judel.Buls@ae2s.com. Web site links contained in this issue are posted as clickable links at [www.ae2s.com/Updatelinks](http://www.ae2s.com/Updatelinks).

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*(Perchlorate from first page)*

possibly releases to surface water from the runoff or erosion of perchlorate-contaminated sand or soil, while the percolation of water through said sand or soil could result in perchlorate contaminating an area of groundwater. As an initial step to plan and prepare for the anticipated perchlorate regulation, it would be prudent for public water systems that have not previously monitored their drinking water for perchlorate to conduct source water sampling and evaluate the impact of any potential sources of perchlorate contamination that may exist within the contributing area of their water source.

More information on this topic can be found at: [http://www.epa.gov/ogwdw/contaminants/unregulated/pdfs/healthadvisory\\_perchlorate\\_interim.pdf](http://www.epa.gov/ogwdw/contaminants/unregulated/pdfs/healthadvisory_perchlorate_interim.pdf), or by contacting AE2S. ■

*(USEPA Addressing Nitrogen and Phosphorus Pollution from first page)*

7. Complete annual public reporting of implementation activities and biannual reporting of load reductions and environmental impacts associated with each management activity in targeted watersheds.
8. Develop a work plan and schedule for numeric criteria development.

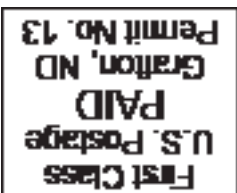
This framework is proposed “as a planning tool, intended to initiate conversation with states, tribes, other partners, and stakeholders on how best to proceed to achieve near- and long-term reductions in nitrogen and phosphorus pollution in our nation’s waters.” The memorandum highlights support for creative solutions that are specific to local and state conditions, using phrases such as:

- States need room to innovate and respond to local water quality needs.
- A one-size-fits-all solution is neither desirable nor necessary.
- There is a need to engage all sectors and parties in order to achieve effective and sustained progress.

USEPA did highlight, however, its commitment to the Clean Water Act, suggesting that in cases where states are not demonstrating progress toward Clean Water Act objectives, it could use its authority to move the process along.

A copy of the USEPA memorandum and framework can be viewed at: [http://water.epa.gov/scitech/swguidance/standards/criteria/nutrients/upload/memo\\_nitrogen\\_framework.pdf](http://water.epa.gov/scitech/swguidance/standards/criteria/nutrients/upload/memo_nitrogen_framework.pdf). ■

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