



[OEHHA Home](#)

[Air](#)

[About OEHHA](#)

[Children's Health](#)

[Ecotoxicology](#)

[Fish](#)

[Pesticides](#)

[Proposition 65](#)

[Public Information](#)

[Risk Assessment](#)

[Water](#)

Reference Links

[Help!](#)

[Site Map](#)

[OEHHA Listserver](#)

[Prop. 65 Listserver](#)

[Contact OEHHA Staff](#)



California Health and Safety Code Section 116365

116365. (a) The department shall adopt primary drinking water standards for contaminants in drinking water that are based upon the criteria set forth in subdivision (b) and shall not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. Each primary drinking water standard adopted by the department shall be set at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible meets all of the following:

- (1) With respect to acutely toxic substances, avoids any known or anticipated adverse effects on public health with an adequate margin of **safety**, and
- (2) With respect to carcinogens, or any substances that may cause chronic disease, avoids any significant risk to public health.

(b) The department shall consider all of the following criteria when it adopts a primary drinking water standard:

- (1) The public health goal for the contaminant adopted by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c).
- (2) The national primary drinking water standard for the contaminant, if any, adopted by the United States Environmental Protection Agency.
- (3) The technological and economic feasibility of compliance with the proposed primary drinking water standard. For the purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to public water systems, customers, and other affected parties with the proposed primary drinking water standard, including the cost per customer and aggregate cost of compliance, using best available technology.

(c) The Office of Environmental Health Hazard Assessment shall perform a risk assessment and, based upon that risk assessment, shall adopt a public health goal based exclusively on public health considerations, for each drinking water contaminant regulated, or proposed to be regulated, by the department pursuant to a primary drinking water standard. The risk

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[Links](#)

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assessment shall be performed using the most current principles, practices, and methods used by public health professionals who are experienced practitioners in the field of epidemiology, risk assessment, and toxicology. The office and the department are prohibited from imposing any mandate that requires a public water system to comply with a public health goal. Each public health goal shall be set in accordance with all of the following criteria:

- (1) Each public health goal shall be set for acutely toxic substances, at a level at which no known or anticipated adverse effects on health will occur, with an adequate margin of **safety**.
- (2) Each public health goal shall be set for a carcinogen or other substance that may cause chronic disease at a level that, based upon currently available data, does not pose any significant risk to health.
- (3) To the extent the information is available, the office shall consider possible synergistic effects resulting from exposure to, or interaction with, two or more contaminants.
- (4) The office shall consider the effect of the contaminants upon subgroups that comprise a meaningful portion of the general population, including, but not limited to, infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations, that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.
- (5) The office shall consider the contaminant exposure and bodyburden levels that alter physiological function or structure in a manner that may significantly increase the risk of illness.
- (6) If the office finds that the currently available scientific data is insufficient to determine the amount of a contaminant that creates no significant risk to public health, the public health goal shall be set at a level that is protective of public health with an adequate margin of **safety**, based exclusively on health considerations and factoring in the considerations set forth in paragraphs (1) to (5), inclusive, and paragraph (7), and using the most current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, risk assessment, and toxicology. However, if adequate scientific evidence demonstrates that a safe dose response threshold for a contaminant exists, then the public health goal should be set at that threshold. The department may set the public health goal at zero if necessary to satisfy the requirements of this paragraph.
- (7) The office shall consider exposure to contaminants in media other than drinking water, including, but not limited to, exposures in food, in the ambient and indoor air, and the resulting bodyburden.

(d) Notwithstanding any other provision of this section, any maximum contaminant level in effect on August 22, 1995, may be amended by the department to make the level more stringent pursuant to this section. However, the department may only amend a maximum contaminant level to make it less stringent if the department shows clear and convincing

evidence that the maximum contaminant level should be made less stringent and the amendment is made consistent with this section.

(e) (1) Public health goals established by the office shall be reviewed at least once every five years and revised, pursuant to the provisions of subdivision (c), as necessary based upon the availability of new scientific data.

(2) On or before January 1, 1998, the office shall adopt a public health goal for at least 25 drinking water contaminants for which a primary drinking water standard has been adopted by the department. The office shall adopt a public health goal for 25 additional drinking water contaminants by January 1, 1999, and for all remaining drinking water contaminants for which a primary drinking water standard has been adopted by the department by no later than December 31, 1999. A public health goal shall be concurrently adopted by the office with the adoption of a primary drinking water standard by the department for any newly regulated contaminant.

(f) The department or office may review, and adopt by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency for the purpose of adopting a national primary drinking water standard or maximum contaminant level goal when it establishes a California maximum contaminant level or public health goal.

(g) At least once every five years after adoption of a primary drinking water standard, the department shall review the primary drinking water standard and shall, consistent with the criteria set forth in subdivisions (a) and (b), amend any standard if any of the following occur:

(1) Changes in technology or treatment techniques that permit a materially greater protection of public health or attainment of the public health goal.

(2) New scientific evidence that indicates that the substance may present a materially different risk to public health than was previously determined.

(h) Not later than March 1 of every year, the department shall provide public notice of each primary drinking water standard it proposes to review in that year pursuant to this section. Thereafter, the department shall solicit and consider public comment and hold one or more public hearings regarding its proposal to either amend or maintain an existing standard. With adequate public notice, the department may review additional contaminants not covered by the March 1 notice.

(i) This section shall operate prospectively to govern the adoption of new or revised primary drinking water standards and does not require the repeal or readoption of primary drinking water standards in effect immediately preceding

January 1, 1997.

(j) The department may, by regulation, require the use of as specified treatment technique in lieu of establishing a maximum contaminant level for a contaminant if the department determines that it is not economically or technologically feasible to ascertain the level of the contaminant.

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