State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

Flex your power!
Be energy efficient!

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Date: May 16, 2006

File: HW

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From: JAY NORVELL
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Subject: Perchlorate - Best Management Practices (BMPs)

Perchlorate is both a naturally occurring and a manmade chemical increasingly found in groundwater and soil. Regulation of perchlorate is important because it can persist for many years in ground and surface waters, and it is difficult to remove with standard water treatment processes. In 2000, the Department of Health Services reported detections of perchlorate in 44 public drinking water systems.

Assembly Bill (AB) 826, the Perchlorate Contamination Prevention Act of 2003, required the Department of Toxic Substances Control (DTSC) to adopt regulations specifying BMPs for perchlorate and perchlorate-containing substances. On December 30, 2005, Chapter 33, Best Management Practices for Perchlorate Materials, Sections 67384.1-67384.11, were added to the California Code of Regulations, Title 22, Division 4.5.

The California Department of Transportation (Caltrans) procures, stores, uses, and disposes of perchlorate-containing materials in the construction, operation and maintenance of transportation facilities. The most common manufactured perchlorate-containing materials include: flares, fuses, fireworks, some fertilizers and rock-blasting agents.

Caltrans will comply with DTSC regulations by implementing the following perchlorate BMPs:

1. One-time reporting requirements due September 1, 2007 to DTSC.

2. Training appropriate staff regarding procedures for proper handling, storage, and usage of perchlorate-containing materials.

3. Proper disposal of perchlorate-containing waste.

Attachment 1 is an outline of specific responsibilities, and responsible departmental divisions.

Attachment 2 is DTSC's Perchlorate Emergency Regulations Best Management Practices, which can also be found at: www.dtsc.ca.gov/hazardouswaste/perchlorate.

For questions regarding this memorandum, please contact Carlos Lopez, Environmental Engineering Processes Office, Division of Environmental Analysis, at (916) 653-3548, or at Calnet 8-453-3548.

Attachments

DIVISION PERCHLORATE RESPONSIBILITIES

Each California Department of Transportation's (Caltrans) Division listed below is responsible to develop procedures, communicate, and implement the perchlorate materials best management practices (BMPs) in compliance with the Perchlorate Emergency Regulations found at www.dtsc.ca.gov/hazardouswaste/perchlorate within their Division (see attachment 2).

For the period from July 1, 2006 to June 30, 2007, each Caltrans facility that has more than 500 pounds of solids or 55 gallons of liquids of perchlorate containing materials at any one time, shall submit to the Department of Toxics Substances Control (DTSC) by September 1, 2007, a one-time notification of activities. The notification form is found in DTSC's perchlorate-containing materials regulations, Section 67384.7 (Title 22, California Code of Regulations, Division 4.5, Chapter 33).

Division of Environmental Analysis (DEA)

- Coordinate the Caltrans Divisions to implement the regulations.
- Liaison with DTSC to comment on and interpret the regulations for Caltrans.
- Starting January 1, 2008, and at least every 5 years thereafter, or more frequently as needed, coordinates and facilitates information from the Divisions related to alternative non-perchlorate-containing materials available in the market (DTSC regulation, Section 67384.11).
- Develop and update storm water procedures and manuals; provide training as appropriate.

Division of Design

- Continue to ensure compliance with Standard Specification Section 7-1.01 "Laws to be observed."
- Update project delivery procedures and manuals; provide training as appropriate.

Division of Construction

- Ensure contractor compliance.
- Assist Design to develop new specifications directing the use of non-perchlorate containing material for use in construction projects.
- Develop and update construction storm water BMPs, construction procedures and manuals; provide training as appropriate.
- Review and implement the use of feasible non-perchlorate alternatives. Coordinate with DEA.

Division of Maintenance

- Ensure implementation of DTSC containment BMPs at maintenance stations as appropriate (DTSC regulation, Section 67384.6).
- Submit to DTSC one-time reporting by September 1, 2007, for each maintenance station as appropriate (DTSC regulation, Section 67384.7).
- Implement DTSC road flare BMPs (DTSC regulation, Section 67384.8).
- Update Business Plans to incorporate perchlorate-containing materials (DTSC regulation, Section 67384.7).
- Ensure proper handling of spills involving perchlorate-containing materials (DTSC regulation, Section 67384.9).
- Ensure proper disposal of perchlorate containing materials (DTSC regulation, Section 67384.10).
- Develop and update maintenance storm water BMPs, maintenance procedures and manuals; provide training as appropriate.
- Review non-perchlorate alternatives and implement the use of non-perchlorate alternatives. Coordinate when feasible. Coordinate with DEA.

Division of Traffic Operations

- Coordinate with California Highway Patrol to implement perchlorate regulations.
- Develop and update specific policies and procedures for incident management; provide training as appropriate.
- Develop and implement standard clauses to be included in the encroachment permit general provisions.
- Coordinate with DEA on the review, implementation, and use of feasible non-perchlorate alternatives.

Division of Right of Way (ROW)

- Continue to use existing lease language pertaining to hazardous materials.
- Update ROW storm water BMPs; provide training as appropriate.

Division of Procurement and Contracts/Materiel Distribution

- Develop and update specific policies, procedures for the purchase, tracking, and warehousing of perchlorate-containing materials.
- Ensure implementation of containment BMPs at warehouses as appropriate (DTSC regulation, Section 67384.6).
- Submit one-time reporting by September 1, 2007, for each warehouse as appropriate (DTSC regulation, Section 67384.7).

- Implement road flare BMPs (DTSC regulation, Section 67384.8).
- Update warehouse Business Plans to incorporate perchlorate-containing materials (DTSC regulation, Section 67384.7).
- Ensure spills are properly handled (DTSC regulation, Section 67384.9).
- Ensure proper disposal of perchlorate containing materials (DTSC regulation, Section 67384.10).
- Develop and update warehouse procedures and manuals; provide training as appropriate.
- Review and implement the use of feasible non-perchlorate alternatives. Coordinate with DEA.

Division of Administration, Office of Health and Safety

- Ensure new perchlorate health and safety practices are followed within Caltrans. Develop, and coordinate statewide training awareness for health and safety of Caltrans' employees handling, managing, or using perchlorate containing materials.

Perchlorate BMP Regulatory Text
December 19, 2005

Add the following text to California Code of Regulations, title 22, division 4.5:

Chapter 33. Best Management Practices for Perchlorate Materials

Article 1. General

§ 67384.1 Scope
(a) This chapter establishes the best management practices for perchlorate materials as described in section 67384.2.

(b) A person may not manage perchlorate materials unless the management complies with the best management practices of this chapter.

(c) Nothing in this chapter is a limitation on the power of any other governmental agency to adopt or enforce additional requirements related to the management of perchlorate materials.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5, and 25210.7, Health and Safety Code.

§ 67384.2 Applicability

(a) Effective July 1, 2006, the best management practice requirements of this chapter shall apply to all persons managing perchlorate materials as described in section 67384.3, except those listed in subsection (b) of this section.

(b) The requirements of this chapter do not apply to the following perchlorate materials:

(1) Perchlorate materials managed as a hazardous waste in compliance with all applicable requirements of California hazardous waste law;
(2) Perchlorate-contaminated media under the oversight of a regulatory agency with jurisdiction pursuant to applicable environmental statutes that address response, removal or remediation of the perchlorate contamination, except when disposed at a landfill;
(3) Perchlorate materials containing less than six (6) parts per billion (ppb) of perchlorate;
(4) Consumer goods manufactured in California prior to, but no later than December 31, 2006, and consumer goods transported into California prior to, but no later than to December 31, 2006;
(5) Food, crops, and irrigation water; and
(6) Combustion residuals of perchlorate materials.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.3 Definitions

The definitions set forth in section 66260.10 of this division shall apply unless otherwise defined. The following definitions shall apply to the terms used in this chapter:

"Area of Interest" means the area immediately adjacent to the point of use within the site, but limited to that property under the control of the business.

"Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association. "Business" includes a business organized for profit, a nonprofit business and all of the following:

(a) The federal government, to the extent authorized by federal law.

(b) Any agency, department, office, board, commission, or bureau of state government, including, but not limited to, the campuses of the California Community Colleges, the California State University, and the University of California.

(c) Any agency, department, office, board, commission, or bureau of a city, county or district.

"Commercial" means used by a business to generate revenue or promote the sale of goods or services. "Commercial" does not include material or products used under federal, military, or space launch contract requirements.

"Commercial explosive" does not include fireworks or dangerous fireworks.

"Combustion residual" means any paper, ash, wire, or other physical material that remains after the perchlorate-containing material has been substantially consumed. "Combustion residual" does not include items that retain inherent explosive properties, or treatment residuals of perchlorate-containing waste.

"Consumer commodity" means a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for personal or household use.

"Consumer good" means a product or commodity used by a business that is packaged in a form similar to a consumer commodity.

"Crop" means an agricultural product grown and harvested for sale or consumption.

"Dangerous fireworks" means dangerous fireworks as defined in Health and Safety code sections12505 and 12561 and the relevant sections of title 19, Code of Regulations, subchapter 6.

"Department" means the Department of Toxic Substances Control.

"Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of waste into or on any land or water.

"End user" means the person who utilizes a product for the product's intended end use.

"EPA ID Number" means the identification number as defined in section 66260.10.

"Food" means any raw or processed substance, beverage, including water, or ingredient intended to be used as food, drink, confection, or condiment for human or other animal consumption.

"Household" " means a single detached residence or a single unit of a multiple residence unit and all appurtenant structures. "Household" does not mean a hotel, motel, bunkhouse, ranger station, crew quarters, campground, picnic ground, or day-use recreation facility.

"Household waste" means any materials, including garbage or trash that is generated by residents through the use of a consumer commodity in a household.

"Managing perchlorate materials" means generation, storage, transportation, manufacture, processing, fabrication, packaging, use, reuse, treatment, transfer, pumping, recovery, recycling, spill response, disposal, and discharge.

"Material Safety Data Sheet" means written or printed material concerning a hazardous chemical which is prepared in accordance with title 29 of the Code of Federal Regulations, section 1910.1200(g).

"Military munitions," as defined in title 40 of the Code of Federal Regulations, section 260.10, means all ammunition products and components produced or used by or for the U.S. Department of Defense (DOD) or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear

components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed. "Military munitions" does not include dangerous fireworks.

"NAICS" means the North American Industry Classification System

"Net explosive weight" means the weight of all pyrotechnic compositions, explosives material, and fuse only.

"Non-hazardous waste" means a waste that does not meet the definition of hazardous waste as defined in both Health and Safety Code section 25117 and section 66261.3 of this division.

"Packaging" means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of this chapter.

"Perchlorate-containing device" means a product that is constructed and maintained such that it meets the packaging requirement in section 67384.5(a) of this chapter.

"Perchlorate-contaminated media" means soil, sediment, surface water, groundwater contaminated with perchlorate.

"Perchlorate material" means all perchlorate-containing materials including perchloric acid and perchlorate compounds. "Perchlorate material" includes all forms of matter, goods, and products and shall not be limited by other statutory or regulatory definitions of "material."

"Pyrotechnic operator" means any licensed pyrotechnic operator, who by examination, experience, and training, has demonstrated the required skill and ability in the use and discharge of fireworks as authorized by the license granted.

"Public display of fireworks" means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks.

"Public safety activity" means any activity intended to protect people or property, including, but not limited to, law enforcement services, fire protection and suppression, emergency medical care, tow operations, emergency services, public utility service and repair, homeland security, and highway maintenance and repair.

"RWQCB" means a California Regional Water Quality Control Board.

"Safe and sane fireworks" means state-approved fireworks defined in Health and Safety Code sections 12529 and 12562 and the relevant sections of Title 19, California Code of Regulations, subchapter 6.

"Spill" means unintentional release of perchlorate material. "Spill" does not include:

(a) perchlorate-contaminated media excluded under section 67384.2(b)(2) of this chapter; or
(b) perchlorate material remaining or resulting from the intended use of the product.

"Star" means a small pellet of composition that produces a pyrotechnic effect. A single aerial firework shell could contain several hundred stars.

"SWRCB" means the California State Water Resources Control Board.

"Storage" means the act of storing or holding perchlorate material.

"Wastewater" means a perchlorate-containing water that is a waste.

"Water-resistant package" means a package that when closed, under conditions incidental to handling, is substantially impervious to rain, spray, and run on.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.4 Labeling best management practice requirements for perchlorate materials

(a) Persons who manufacture perchlorate materials, repackage perchlorate materials, distribute perchlorate materials for sale, receive perchlorate materials for resale or use in California, or generate a perchlorate containing waste shall ensure that the perchlorate materials are properly labeled. Labels shall be applied conspicuously on the exterior of all outer shipping packages and on consumer packages. All perchlorate material, except those materials listed in subsection (b) of this section, shall be labeled or marked clearly with the following, "Perchlorate Material – special handling may apply, See www.dtsc.ca.gov/hazardouswaste/perchlorate."

(b) The best management practice requirements of this section do not apply to the following perchlorate materials:

(1) Household waste;
(2) Perchlorate-containing water resulting solely from treatment with a sanitizer, disinfectant, or bleach;
(3) Perchlorate materials used or maintained at a site where all personnel handling the perchlorate material have received instruction on and comply with the perchlorate Best Management Practice requirements of this chapter;
(4) Perchlorate materials while accompanied by a Material Safety Data Sheet, shipping document, or package insert that includes all the information required in the label pursuant to subsection (a);
(5) Finished products produced pursuant to federal, military or space launch contract requirements;
(6) Wastewaters that are discharged under the oversight of a regulatory agency with jurisdiction over discharges;
(7) Non-hazardous perchlorate wastes resulting from the use of safety flares during a public safety activity; and
(8) Perchlorate materials registered as pesticides pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act.

(c) The best management practice requirements of this section do not apply to the end user of any of the following:

(1) consumer goods;
(2) consumer commodities; and
(3) fertilizers.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.5 Packaging best management practices requirement for perchlorate materials

(a) Each package used for the containment of perchlorate materials under this section, unless contained as specified in section 67384.6, shall:

(1) be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to handling, there will be no identifiable release of perchlorate materials to the environment; and

(2) be contained in a water-resistant package.

(b) Perchlorate-containing products that are constructed and maintained such that they meet the packaging requirement of subsection (a) need not also comply with the containment requirements specified in section 67384.6.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.6 Containment best management practice requirements for the storage, processing and manufacturing of perchlorate materials

(a) Unless listed in subsection (b) of this section, perchlorate materials not packaged or constructed as specified in section 67384.5 during storage, processing and manufacturing, shall be contained in weather-resistant structures with floors that:

(1) are adequately water-resistant to prevent seepage into or out of the containment structure;
(2) do not have drains that release to the environment unless the discharge complies with section 67384.10; and
(3) are of adequate strength to support the loads.

(b) Containment requirements specified in this section shall not apply to the following:

(1) Perchlorate-containing water resulting solely from treatment with a sanitizer, disinfectant, or bleach;
(2) Manufacturing processes, which because of explosion risk, are not conducted within a weather-resistant structure, but meet all other requirements of subsection (a) above;
(3) Fertilizers stored by end users for less than thirty (30) days on the site of intended application;
(4) Consumer commodities used or stored at a household; and
(5) Safe and sane fireworks sold or offered for sale at a permitted temporary retail outlet.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.7 One-time notification best management practice requirements for perchlorate materials

(a) On or before September 1, 2007 a business managing perchlorate materials in the course of its operations in an amount greater than 500 pounds of solids or 55 gallons of liquids, at any one time, shall submit to the Department a one-time notification regarding perchlorate materials. The notification shall cover activities occurring between July 1, 2006 and June 30, 2007 and shall include the following:

Business Name	
Location Address	
Mailing Address	
Business NAICS	
Nature of Business	
EPA ID Number (if available)	
Environmental Contact Name	
Title of Contact Person	
Mailing Address	
E-mail Address	
Phone Number	
List of Perchlorate Materials Handled:	

Has the business plan has been updated to include perchlorate-containing materials pursuant to Health and Safety Code section 25504.1? Yes or No

	Check the appropriate boxes to identify if the quantity is:		
How much perchlorate materials...	None	Less than or equal to 500 pounds of solids or 55 gallons of liquids a year	Greater than or equal to 500 pounds of solids or 55 gallons of liquid a year
does your business manufacture or process?			
does your business use to manufacture or produce a product?			
are used or combusted?			
are stored?			
are offered for sale or procurement?			
are generated as waste?			
are treated or recycled onsite?			
are treated or recycled offsite?			
are discharged under a permit or waiver issued by the SWRCB or a RWQCB?			
are sent for offsite disposal?			

(b) A material meeting the definition of perchlorate material solely because it contains one or more perchlorate-containing devices shall include only the weight of the perchlorate-containing devices in determining the notification threshold weight of subsection (a).

(c) A business shall not include the following perchlorate-containing materials in determining the notification threshold of subsection (a):

(1) Military munitions managed in accordance with Department of Defense regulations;
(2) Water resulting solely from treatment with a sanitizer, disinfectant, or bleach;
(3) Sanitizer, disinfectant, or bleach that is packaged as a consumer commodity;
(4) Wastewater that is discharged under the oversight of a regulatory agency with jurisdiction over discharges;
(5) Fertilizer that has been reported pursuant to Food and Agriculture Code sections 14621-14623; and
(6) Safe and sane fireworks sold or offered for sale at a permitted temporary retail outlet.

(d) Information on how to submit an electronic notification under subsection (a) is available at www.dtsc.ca.gov/hazardouswaste/perchlorate.

(e) Written notifications submitted under subsection (a) shall be submitted to: Department of Toxic Substances Control, Hazardous Waste Management

Program, Regulatory and Program Development Division, P.O. Box 806, Sacramento, CA 95812-0806, with "Attention: Perchlorate Materials BMPs" prominently displayed on the front of the envelope.

(f) A business submitting notification under section (a) may request a business confidentiality claim that part or all of the notification information be withheld from public disclosure by the Department pursuant to the California Public Records Act, Government Code section 6250 et seq.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5, 25210.6 and 25504.1, Health and Safety Code; Sections 14231 through 14623, Food and Agriculture Code.

§ 67384.8 Special best management practices for flares and pyrotechnic perchlorate materials

(a) Road safety flares shall be used in a manner that minimizes releases of perchlorate to the environment. The following practices shall be implemented to the extent practical without impeding immediate safety considerations:

(1) Flares should be allowed to burn completely;
(2) Flares used in an emergency incident shall be limited in number and duration necessary to ensure safety; and
(3) All personnel who routinely use flares in the normal course of employment should receive instruction on the potential environmental hazards associated with the use of perchlorate materials and on the perchlorate Best Management Practice requirements of this chapter.

(b) Marine safety flares shall be used in a manner that minimizes releases of perchlorate to the environment.

(c) Within twenty-four (24) hours of a public display of fireworks or the use of dangerous fireworks, the pyrotechnics operator, in addition to complying with title 19 of the California Code of Regulations, section 1003, shall, to the extent practical, collect any stars and un-ignited pyrotechnic material found during the required inspection of the entire firing range.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.9 Spill response best management practices for non-hazardous perchlorate materials

(a) For spills of non-hazardous perchlorate materials to the environment, a handler of perchlorate materials:

(1) Shall immediately take action to stop and contain all spills of perchlorate material;
(2) Shall determine whether any material resulting from the spill is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of this division. The handler is considered the generator of the material resulting from the release, and shall manage it in compliance with chapter 12 of this division;
(3) Shall collect to the extent practical any material resulting from the spill; and
(4) Shall prevent or minimize releases to storm drains.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.10 Discharge/Disposal best management practices for perchlorate materials

(a) When solid non-hazardous perchlorate containing waste is land disposed in California, it shall be disposed of in either:

(1) a hazardous waste landfill; or

(2) a composite-lined portion of a non-hazardous waste landfill that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993. If a release is indicated by the landfill's Detection Monitoring Program, the landfill shall include perchlorate as a Constituent of Concern in the Evaluation Monitoring Program.

After the initial evaluation monitoring, monitoring requirements imposed pursuant to this subsection may be modified or terminated by the RWQCB if deemed appropriate.

(b) When non-hazardous liquid perchlorate-containing wastewater is discharged in California, the discharger shall:

1) notify the overseeing regulatory agency and the appropriate RWQCB of the perchlorate discharge; and

2) upon initial issuance or renewal of the existing authorization for discharge, shall include perchlorate in the required monitoring program, if deemed necessary by the overseeing regulatory agency.

(c) The POTWs receiving wastewater from a business that has identified perchlorate-containing discharges, shall:

(1) notify the appropriate RWQCB of the acceptance of perchlorate-containing waste by the POTW; and

(2) upon initial issuance or renewal of the existing authorization for discharge, shall include perchlorate in the required monitoring and reporting plan, if deemed necessary by the RWQCB.

Monitoring requirements imposed pursuant to this subsection may be modified or terminated by the RWQCB if deemed appropriate.

(d) The requirements of subsections (a) and (b) do not apply to:

(1) Perchlorate-containing water resulting solely from treatment with a sanitizer, disinfectant, or bleach;

(2) Household non-hazardous perchlorate-containing waste; and

(3) Non-hazardous perchlorate wastes resulting from the use of safety flares during a public safety activity.

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.

§ 67384.11 Pollution prevention best management practices for perchlorate materials

(a) On or before January 1, 2008 and every 5 years thereafter, a business that uses perchlorate-containing fertilizers, road safety flares, commercial explosives, or commercial blasting agents, in an amount greater than 500 pounds in any month, shall:

(1) Review the use of these perchlorate-containing products to determine if a non-perchlorate-containing alternative is available and equivalent; and
(2) Review and implement as appropriate pollution prevention measures to prevent releases of perchlorate.

Fertilizers that are substances allowed by the United States Department of Food and Agriculture pursuant to the Organic Foods Production Act of 1990, are exempt from this subsection. Other fertilizers that are perchlorate materials solely because the source of the perchlorate is from an allowed substance pursuant to the Organic Foods Production Act are also exempt from this subsection.

(b) On or before January 1, 2008, a business that uses dangerous fireworks in amounts greater than 4,000 pounds net explosive weight, or conducts public display of fireworks in amounts greater than 4,000 pounds net explosive weight, or uses solid rocket motors, in amounts greater than 8,000 pounds gross weight, at the same location, in a calendar year, except as specified in subsection (c), shall submit to the Department the following data regarding the Area of Interest:

(1) Perchlorate analytical results of existing storm water monitoring, in the Area of Interest, mandated by a storm water permit authorized by the SWRCB or an applicable RWQCB that requires monitoring for perchlorate; or
(2) Existing environmental monitoring of the Area of Interest for perchlorate in the soil and/or water.

(c) A business subject to subsection (b) above is exempt from the data submittal of subsection (b)(1) and (b)(2), if the perchlorate-contaminated media in the Area of Interest is exempted under section 67384.2(b)(2).

Note: Authority cited: Sections 25210.6 and 58012, Health and Safety Code. Reference: Sections 25210.5 and 25210.6, Health and Safety Code.