



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	<b>05/01/03</b>	Bill No:	<b>SB 1004</b>
Tax:	<b>Perchlorate Storage Facility Fee</b>	Author:	<b>Soto and Romero</b>
Board Position:		Related Bills:	

### **BILL SUMMARY**

This bill would require every owner of a perchlorate storage facility that stores over 500 pounds of perchlorate in any calendar year to pay a fee of six cents (\$0.06) for each pound of perchlorate stored in the storage facility during the prior calendar year. The State Board of Equalization (Board) would collect the fee pursuant to the Fee Collection Procedures Law.

### **Summary of Amendments**

Since the previous analysis, this bill was amended to include Board-suggested amendments to require the State Water Resources Control Board (SWRCB) to provide the Board with a list of storage facilities in California, provide that the fee is imposed for each pound of perchlorate stored in the facility during the prior calendar year, and authorize the Board to collect the fee pursuant to the Fee Collection Procedures Law. The amendments also revise the definition of "perchlorate storage facility," and require the Board to collect the fee commencing on July 1, 2005, and every July 1 thereafter.

### **ANALYSIS**

#### **Current Law**

Under existing law, there is no state tax or fee imposed upon owners of perchlorate storage facilities for perchlorate stored in the facility.

#### **Proposed Law**

This bill would add Chapter 8.5 (commencing with Section 13610) to Division 7 of the Water Code to, among other things, impose upon every owner of a perchlorate storage facility a fee of six cents (\$0.06) for each pound of perchlorate stored in the storage facility during the prior calendar year. This bill would define a "perchlorate storage facility" to mean a facility that stores over 500 pounds of perchlorate in any calendar year.

The fee imposed would be collected by the Board pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, otherwise known as the Fee Collection Procedures Law. The Board would collect the fee commencing on July 1, 2005, and every July 1 thereafter. The Board would deposit all fees collected in the Perchlorate Pollution Prevention Fund, which this bill would create in the State Treasury.

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In addition to the perchlorate storage facility fee, the following funds would be deposited into the Perchlorate Pollution Prevention Fund:

- Money appropriated by the Legislature for deposit in the Perchlorate Pollution Prevention Fund.
- Any interest earned upon the money deposited in the Perchlorate Pollution Prevention Fund.
- Any administrative penalties collected by the SWRCB or each California regional water quality control board pursuant to this chapter.

The SWRCB would be authorized to expend the money in the Perchlorate Pollution Prevention Fund, upon appropriation by the Legislature, to carry out the purposes of, and to pay for the administrative costs of implementing, the provisions of this measure.

This bill would also require the SWRCB to provide the Board with a list of storage facilities in California on or before March 1, 2005.

This bill would become operative January 1, 2004.

### **Background**

According to documents prepared by the U.S. Environmental Protection Agency (EPA), perchlorate is both a naturally occurring and man-made chemical. Most of the perchlorate manufactured in the United States is used as the primary ingredient of solid rocket propellant. Wastes from the manufacture and improper disposal of perchlorate-containing chemicals are increasingly being discovered in soil and water.

Perchlorate interferes with iodine uptake into the thyroid gland. Because iodine is an essential component of thyroid hormones, perchlorate disrupts how the thyroid functions. In adults, the thyroid helps to regulate metabolism. In children, the thyroid plays a major role in proper development in addition to metabolism. Impairment of thyroid function in expectant mothers may impact the fetus and newborn and result in effects including changes in behavior, delayed development and decreased learning capability. Changes in thyroid hormone levels may also result in thyroid gland tumors. EPA's draft analysis of perchlorate toxicity is that perchlorate's disruption of iodine uptake is the key event leading to changes in development of tumor formation.

There have been confirmed perchlorate releases in at least 20 states throughout the United States. In California, perchlorate contamination has been found in eastern Sacramento County, the San Gabriel Valley, and in Colorado river water supplying Southern California. The full extent of perchlorate contamination is not known at this time.

### **COMMENTS**

1. **Sponsor and purpose.** This bill is sponsored by Environment California and is intended to address the pervasive perchlorate contamination throughout California by creating a comprehensive statewide monitoring system for perchlorate and providing emergency water replacement and fund cleanup of abandoned sites of perchlorate contamination.

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- 2. Key amendments.** The **May 1, 2003**, amendments address concerns raised in the Board's previous analysis. Specifically, those amendments specify that the fee is an annual fee based on the previous calendar year, authorize the Board to collect the fee pursuant to the Fee Collection Procedures Law, and require SWRCB to provide the Board with a list of perchlorate storage facilities in California by a specified date. The remaining amendments revise the definition of "perchlorate storage facility," and require the Board to collect the fee commencing on July 1, 2005, and every July 1 thereafter.

The **April 7, 2003**, amendments require the Board to collect a specified fee that would be imposed upon every owner of a perchlorate storage facility for each pound of perchlorate stored in the facility.

- 3. Suggested technical amendments.** It is suggested that the bill be amended to specify a due date for the fee and return, to authorize the payment of refunds on overpayments of the fee and to specifically authorize expenditures from the Perchlorate Pollution Prevention Fund to pay the administrative costs of the Board. Board staff is willing to work with the author's office in drafting appropriate amendments.
- 4. Definition of perchlorate.** This bill should include a definition for the term "perchlorate" for purposes of clarification. For example, the bill should clarify whether the term would include products that contain 10 percent sodium or magnesium perchlorate. Board staff is willing to work with the author's office in developing language that reflects the author's intent.
- 5. This bill should contain a specific appropriation to the Board.** This bill would require the Board to impose a new fee and administer a new program commencing on April 1, 2004, which is in the middle of the state's fiscal year. In order to begin to develop the feepayer base, reporting forms, secure appropriate staff, etc., an adequate appropriation would be required to cover the Board's administrative start-up costs that would not already be identified in the Board's 2003-04 budget.

## **COST ESTIMATE**

The Board would incur non-absorbable costs to adequately develop and administer a new fee program. These costs would include registering feepayers, developing computer programs, mailing and processing returns and payments, conducting audits, developing regulations, training staff, and answering inquiries from the public. A cost estimate of this workload is pending.

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## REVENUE ESTIMATE

### Background, Methodology, and Assumptions

According to the Environmental Working Group (EWG), a not-for-profit environmental research organization, annual perchlorate production reached about 20 million pounds annually in recent years in the United States. The U.S. Environmental Protection Agency indicated that there are at least 266 sites or users of perchlorate in the United States. Of these 266 sites, at least 55 are in California.

Based on the proportion of users in California to the overall users in the U.S., i.e. 21% ( $55/266 = 21\%$ ), it is estimated that 4.2 million pounds would be used by sites in California (21% (20 million pounds) = 4.2 million pounds). This bill initiates a fee of \$0.06 per pound of perchlorate. This equates to an estimated revenue of \$252,000 ( $4.2 \text{ million pounds} \times \$0.06 = \$252,000$ ).

### Revenue Summary

The proposed fee would generate about \$252,000 annually for the Perchlorate Pollution Prevention Fund.

### Qualifying Remarks

The Environmental Protection Agency and the SWRCB did not have any specific data for the amount of perchlorate stored or used in California. Given that about 90% of the perchlorate manufactured each year goes to the Air Force, NASA and defense contractors, a survey of these users could possibly reveal a more accurate assessment of perchlorate stored or used in California.

Analysis prepared by:	Cindy Wilson	916-445-6036	05/13/03
Revenue estimate by:	Ronil Dwarka	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	
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