

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
AUGUST 2, 2023**

ITEM 5

SUBJECT

ADMINISTRATIVE PROCEDURE ACT PUBLIC HEARING TO RECEIVE COMMENTS ON A PROPOSED MAXIMUM CONTAMINANT LEVEL FOR HEXAVALENT CHROMIUM AND DRAFT ENVIRONMENTAL IMPACT REPORT.

DISCUSSION

The State Water Resources Control Board (State Water Board) is seeking written and oral public comments on a proposed hexavalent chromium maximum contaminant level (MCL) and other associated requirements.

The State Water Board establishes drinking water standards to ensure that drinking water provided by public water systems (PWS) is at all times safe, pure, wholesome, and potable. California PWS are subject to both federal Safe Drinking Water Act regulations and regulations adopted by the State Water Board under the California Safe Drinking Water Act (Health & Saf. Code, div. 104, pt. 12, ch. 4, §116270 et seq.). Health and Safety Code (HSC) section 116365 requires the State Water Board to adopt primary drinking water standards for contaminants, specifying that each standard must be set at a level as close as technologically and economically feasible to the corresponding public health goal (PHG), placing primary emphasis on the protection of public health. HSC 116365.5 specifically requires the establishment of a hexavalent chromium MCL. In 2011, the California Office of Environmental Health Hazard Assessment published the current hexavalent chromium PHG of 0.02 micrograms per liter (µg/L). In May 2017, the Superior Court of Sacramento County issued a judgment invalidating a previously-established hexavalent chromium MCL and ordered the State Water Board to adopt a new MCL consistent with HSC 116365 (*California Manufacturers and Technology Association, et al. v. State Water Resources Control Board, Super. Ct., Sacramento County, Case No. 34-2015-80001850.*).

The State Water Board proposes to establish a primary drinking water standard for hexavalent chromium in the form of an MCL of 10 µg/L or 0.010 milligrams per liter (mg/L) and to adopt an associated detection limit for purposes of reporting of 0.1 µg/L, best available technologies, public notification language, a compliance schedule, analytical methods, and Consumer Confidence Report language. The State Water Board has determined that the proposed regulations are necessary to carry out the purposes of California's Safe Drinking Water Act. The proposed rulemaking is intended to satisfy the statutory mandates set forth in HSC sections 116365 and 116365.5, as well as the court order.

On June 16, 2023, the State Water Board provided notice of a proposed rulemaking pursuant to the California Administrative Procedure Act (APA). It also circulated a notice of availability of a draft environmental impact report under the California Environmental Quality Act for review by public agencies and the public. Publication of the notice of proposed rulemaking in the California Regulatory Notice Register began the mandatory 45-day public comment period. The notice of proposed rulemaking, initial statement of reasons, text of proposed regulations, draft environmental impact report, and other rulemaking documents are available at the Division of Drinking Water's hexavalent chromium rulemaking page at:

https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/SWRCBDDW-21-003_hexavalent_chromium.html.

POLICY ISSUE

Present proposed regulations and receive public comments.

FISCAL IMPACT

None at this time – APA hearing only.

Fiscal impacts to the State Water Board were estimated for the review of expected compliance and operations plans prepared by public water systems. The projected costs below are from the Standardized Regulatory Impact Analysis (SRIA), Table 16.

Total Costs to Review Compliance and Operations Plans (in 2022 dollars)

Year	Total
2024	42,262
2025	104,747
2026	113,725
2027	478,843
2028	0
2029	0

Additional information regarding underlying assumptions and other potential, nonquantifiable impacts is provided in the SRIA.

REGIONAL BOARD IMPACT

None at this time – APA hearing only.

May impact regional water quality control boards with prospective incorporation by reference of maximum contaminant levels in Title 22, California Code of Regulations, section 64431.

STAFF RECOMMENDATION

None at this time – APA hearing only.