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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2024-

### ADOPTING A MAXIMUM CONTAMINANT LEVEL FOR HEXAVALENT CHROMIUM AND CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT

#### WHEREAS:

1. California public water systems are subject to regulations adopted under the California Safe Drinking Water Act (Health & Saf. Code, div. 104, pt. 12, ch. 4, § 116270 et seq.).
2. Under the California Safe Drinking Water Act, the State Water Resources Control Board (State Water Board) is responsible for adopting primary drinking water standards for contaminants in drinking water. (Health & Saf. Code, § 116365.) Primary drinking water standards are defined in the California Safe Drinking Water Act as the maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons and the monitoring and reporting requirements adopted by the state board that pertain to the maximum contaminant levels (MCLs). (Health & Saf. Code, § 116275, subd. (c).)
3. It is the policy of the state to reduce to the lowest level feasible all concentrations of toxic chemicals that, when present in drinking water, may cause cancer, birth defects, and other chronic diseases. (Health & Saf. Code, § 116270, subd. (d).)
4. Hexavalent chromium is a heavy metal that is carcinogenic and toxic to the liver, and it is present in drinking water due to both natural occurrence and its use in industrial applications.
5. The Legislature directed the State Water Board to adopt a primary drinking water standard for hexavalent chromium. (Health & Saf. Code, § 116365.5.)
6. The State Water Board is required to set the primary drinking water standard for hexavalent chromium at a level that is as close as feasible to the public health goal published by the Office of Environmental Health Hazard Assessment, placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, avoids any significant risk to public health. (Health & Saf. Code, § 116365.)

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7. In 2011, the Office of Environmental Health Hazard Assessment (OEHHA) published a public health goal for hexavalent chromium of 0.02 parts per billion (ppb). In November 2023, as part of its review of the hexavalent chromium public health goal, OEHHA released a draft technical support document for a proposed health-protective concentration for the noncancer effects of hexavalent chromium in drinking water of 5 micrograms per liter (ug/L or ppb). Finalization of a PHG update will likely take at least another year to complete, including development of a health-protective concentration for cancer effects of hexavalent chromium.
  
8. On June 16, 2023, in accordance with the California Administrative Procedure Act (APA) (Gov. Code, div. 3, pt. 1, ch. 3.5), the State Water Board distributed, and the Office of Administrative Law published, a Notice of Proposed Rulemaking for the proposed regulations, which included a primary drinking water standard for hexavalent chromium.
  
9. Consistent with the requirements of Government Code section 11346.2, the State Water Board prepared an Initial Statement of Reasons (ISOR) for proposing an MCL for hexavalent chromium of 10 ug/L, including a standardized regulatory impact analysis, as required by Government Code section 11346.3 and title 1 of the California Code of Regulations (CCR), sections 2000-2204, which was made available to the public.
  
10. Also on June 16, 2023, as lead agency under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA), the State Water Board completed a Draft Environmental Impact Report (EIR) for the proposed regulations in accordance with section 15187 of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) and distributed a Notice of Availability of Draft EIR.
  
11. The Notice of Proposed Rulemaking and the Notice of Availability of Draft EIR solicited comments on the proposed regulations and the Draft EIR, respectively, until noon on August 4, 2023, for a public comment period greater than 45 days.
  
12. After distributing a Revised Notice of Proposed Rulemaking on July 21, 2023, to change the location for a public hearing on the proposed regulations, the State Water Board distributed a Second Revised Notice of Proposed Rulemaking to extend the public comment period on the proposed regulations to noon on August 11, 2023.

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13. On August 2, 2023, the State Water Board held a hearing to receive oral and written comments from the public on the proposed regulations in accordance with the APA, and on the Draft EIR.
14. On August 4, 2023, the State Water Board distributed a Third Revised Notice of Proposed Rulemaking to extend the public comment period on the proposed regulations to noon on August 18, 2023.
15. At the hearing and in written comments, groups representing publicly owned treatment works (POTWs) expressed concerns about the impacts of the hexavalent chromium MCL on their operations, including the need to meet the MCL as a water quality objective to protect municipal and domestic supply beneficial uses of water because some regional water quality control boards have prospectively incorporated by reference drinking water standards as water quality objectives into their water quality control plans.
16. On November 22, 2023, in response to public comments, the State Water Board distributed a Notice of Public Availability of Changes to Proposed Regulations, soliciting comments on changes to the proposed regulations until noon on December 15, 2023.
17. On January 31, 2024, and February 14, 2024, the State Water Board distributed a Notice of Public Availability of Additional Documents Relied Upon and a Revised Notice of Public Availability of Additional Documents Relied Upon, respectively, soliciting public comments on the addition of the documents to the rulemaking record until noon on March 4, 2024.
18. Following the close of the final public comment period on March 4, 2024, State Water Board staff compiled, reviewed, and prepared draft responses to comments on the proposed regulations and the Draft EIR, and made those available to the public as part of the agenda item for the approval of the regulations.
19. Final responses to all comments on the proposed regulations that were received during the public comment periods will be prepared and contained within the Final Statement of Reasons and submitted to the Office of Administrative Law as part of the rulemaking record.
20. The State Water Board did not receive any comments or additional information that constituted significant new information requiring recirculation

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of the Draft EIR under section 21092.1 of the Public Resources Code and section 15088.5 of the CEQA Guidelines.

21. As required by CEQA, no fewer than 10 days before the date of this meeting the State Water Board distributed a copy of the Final EIR, including responses to comments, to all public agencies that commented on the Draft EIR.
22. The State Water Board is required to adopt a finding of the best available technology for each contaminant for which a primary drinking water standard has been adopted at the time the standard is adopted, taking into consideration the costs and benefits of best available treatment technologies that have been proven effective under full-scale field applications. (Health & Saf. Code, § 116370.)
23. The State Water Board finds that the best available technologies for removing hexavalent chromium from drinking water are ion exchange, reverse osmosis, and reduction/coagulation/filtration, as described in the Initial Statement of Reasons for the proposed regulations and as specified in the proposed regulations.
24. The State Water Board submitted the scientific portions of the proposed regulations, along with a statement of the scientific findings, conclusions, and assumptions on which the scientific portions of the proposed regulations are based and the supporting scientific data, studies, and other appropriate materials, for external scientific peer review in accordance with section 57004 of the Health and Safety Code. The State Water Board posted the peer review request, findings, and State Water Board responses on the State Water Board's website.
25. Regulatory package elements are posted on the program webpage at [https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/SWRCB/DDW-21-003\\_hexavalent\\_chromium.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/SWRCB/DDW-21-003_hexavalent_chromium.html).
26. The State Water Board finds that the proposed regulations are technologically and economically feasible for the reasons set forth in the Initial Statement of Reasons.
27. It is the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Wat. Code, § 106.3.) The State Water Board has

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considered this policy when adopting the proposed regulations, including the need to consider impacts to affordability from regulations that protect public health and safety. The adoption of the proposed regulations advances the human right to water by setting a primary drinking water standard for hexavalent chromium that is protective of public health, while avoiding substantial impacts to affordability and accessibility. Adoption of the proposed regulations would improve the safety of drinking water from public water systems in California by prohibiting hexavalent chromium above the proposed maximum contaminant level of 10 ppb. As described in the ISOR, the proposed regulations would reduce the risk of cancer and health effects from liver toxicity due to hexavalent chromium. At the same time, and as discussed in the ISOR, the proposed regulations are economically feasible. Nevertheless, it is possible that some customers may struggle to afford safe drinking water as a result of rate increases imposed by affected public water systems to comply with the proposed regulations. That risk, however, can potentially be mitigated by financial assistance for public water systems and alternative means of compliance for small systems, including implementation of point-of-use and point-of-entry treatment units in lieu of centralized treatment. In addition, the ISOR demonstrates that the likely monthly increase for the vast majority of those affected is less than \$8, an affordable increase to protect public health and provide safe drinking water to as many Californians as possible.

THEREFORE, BE IT RESOLVED THAT:

The State Water Board:

1. Certifies that the [Final EIR](#) has been completed in compliance with CEQA, that the Final EIR was presented to the State Water Board as the decision-making body, that the State Water Board reviewed and considered the information contained in the Final EIR prior to approving the proposed regulations, and that the Final EIR reflects the State Water Board's independent judgment and analysis.
2. Adopts the CEQA Findings and Statement of Overriding Considerations ([Attachment 1](#)).
3. Adopts the proposed regulations for a hexavalent chromium MCL of 10 ppb, and makes modifications to California Code of Regulations, Title 22, sections 64415, 64431, 64432, 64447.2, 64463.4, 64465, and 64481, as appended to this resolution ([Attachment 2](#)).

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4. Encourages the regional water quality control boards to work with the POTWs and consider approaches, including schedules of compliance, to avoid imposing unnecessary costs to POTWs to address exceedances of hexavalent chromium in their effluent that will be addressed as public water systems come into compliance with the MCL.
5. Directs the Executive Director or designee to sign Form 400, and directs staff to compile the final statement of reasons, including the final responses to comments, and submit it with the adopted regulations to OAL.
6. Authorizes the Executive Director or designee to make non-substantive revisions to the adopted regulations or supporting documentation, if prior to their filing by OAL with the Secretary of State, the State Water Board or its staff, or OAL, determine that non-substantive revisions are needed.
7. Directs staff to file a Notice of Determination in accordance with CEQA within five working days of the date of this resolution.
8. Directs staff to continue to monitor OEHHA's update of the PHG for hexavalent chromium, and to amend the MCL, as required by section 116365 of the Health and Safety Code, if any updated PHG indicates that hexavalent chromium may present a materially different risk to public health than was previously determined.

## **CERTIFICATION**

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 17, 2024.

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Courtney Tyler  
Clerk to the Board