

**CEQA FINDINGS AND FACTS IN SUPPORT OF FINDINGS AND  
STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE  
ADOPTION OF A REGULATION FOR THE HEXAVALENT CHROMIUM MAXIMUM  
CONTAMINANT LEVEL**

*Prepared by:*

State Water Resources Control Board

April 2024

## 1. INTRODUCTION

These California Environmental Quality Act (CEQA) findings are made pursuant to CEQA (Public Resources Code section 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs. tit. 14, section 15000 et seq.) by the State Water Resources Control Board (State Water Board or Board) as the lead agency for the project. The project under CEQA consists of the adoption of a primary drinking water standard for hexavalent chromium, including, without limitation, a maximum contaminant level, a detection limit for purposes of reporting, and a compliance schedule, as described in section 1.1, below, and section 2.4 of the Draft EIR (Proposed Regulations). The objectives of the Proposed Regulations include the following:

- Avoid significant risks to public health from drinking water supplied by public water systems in California.
- Reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium.
- Comply with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5.

These CEQA findings pertain to the Final Environmental Impact Report (Final EIR) SCH No. 2021110099 prepared for the Proposed Regulations.

### 1.1. Description of the Proposed Regulations

As discussed in the Draft EIR<sup>1</sup>, in 2002, the California Legislature required the Department of Health Services to develop a primary drinking water standard for hexavalent chromium by 2004. (Health & Saf. Code, § 116365.5, subd. (c).) Health and Safety Code section 116365, subdivisions (a) and (b), require the State Water Board to adopt primary drinking water standards at a level as close as feasible to the corresponding public health goal (PHG), placing primary emphasis on the protection of public health, and avoiding, to the extent technologically and economically feasible, any significant risk to public health. In 2011, the Office of Environmental Health Hazard Assessment (OEHHA) published the hexavalent chromium PHG at 0.02 parts per billion (ppb) or micrograms per liter (ug/L).<sup>2</sup>

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<sup>1</sup> Any reference to the Draft EIR incorporates the amendments made to the document, as shown in Chapter 3 of the Final EIR.

<sup>2</sup> OEHHA is in the process of updating its PHG, and on November 24, 2023, published a draft document describing a proposed health-protective concentration for non-cancer effects of hexavalent chromium in drinking water of 5 ppb. The health-protective

In the Proposed Regulations, the State Water Board proposes a primary drinking water standard for hexavalent chromium. The Proposed Regulations include a maximum contaminant level (MCL) of 10 ppb and an associated detection limit for purposes of reporting (DLR) of 0.05 ppb for all public water systems. The Proposed Regulations include a compliance schedule based on public water system size, by adding subdivision (p) and Table 64432-B to section 64432 of title 22 of the California Code of Regulations. Under the proposed compliance schedule:

- Systems with more than 10,000 service connections would be required to comply with the MCL within two years of rule adoption.
- Systems with 1,000 to 10,000 service connections would be required to comply with the MCL within three years of rule adoption.
- Systems with fewer than 1,000 service connections would be required to comply with the MCL within four years of rule adoption.
- Systems with hexavalent chromium contamination above the proposed MCL before their applicable compliance deadline must prepare and submit to the State Water Board plans for achieving compliance by their applicable compliance deadline.

Additionally, in the Proposed Regulations and in compliance with Health and Safety Code section 116370, the State Water Board identifies reduction-coagulation-filtration (RCF), ion exchange, and reverse osmosis as best available technologies (BATs) for the removal of hexavalent chromium from drinking water to concentrations at or below the proposed MCL. For a more detailed discussion on BAT and the Proposed Regulations, see Chapter 2 of the Draft EIR. Visit the State Water Board website for the text of the [Proposed Regulations](#).

## **1.2. Organization**

The findings set forth in the following sections state the State Water Board’s reasons for making each finding and the rationale connecting the evidence to its conclusions. These

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concentration for noncancer effects of 5 ppb would be a ceiling for any future change to the PHG. This is because even if OEHHA were to determine a health-protective concentration for cancer effects from hexavalent chromium that is higher than the proposed MCL of 10 ppb, OEHHA would still select the lower value of 5 ppb for the PHG. As explained in OEHHA’s November 24, 2023, “Announcement of Availability of a Draft Technical Support Document for Proposed Health-Protective Concentration for Noncancer Effects of Hexavalent Chromium in Drinking Water”, “[f]or carcinogens, health-protective water concentrations are determined for both cancer and noncancer effects, and the lowest (most health protective) value is selected as the PHG.”

findings are supported by substantial evidence based on the record of the proceedings. This document is organized as follows:

- Location and Custodian of the Record (CEQA Guidelines, § 15091(e));
- Findings and Facts Regarding Less Than Significant or No Impact and thus Requiring No Mitigation (not required by CEQA or CEQA Guidelines);
- Findings and Facts Regarding Significant Effects and Mitigation Measures (Pub. Resources Code, § 21081; CEQA Guidelines, § 15091);
- Findings Regarding Project Alternatives (Pub. Resources Code, § 21002);
- Findings Regarding Recirculation of the Draft EIR (not required by CEQA or CEQA Guidelines, but it is “preferable” (see *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 11134));
- Statement of Overriding Considerations (Pub. Resources Code, § 21081; see CEQA Guidelines, §§ 15043, 15093).

### **1.3. Location and Custodian of the Record**

All records and materials constituting the record of the proceedings upon which these findings are made by the State Water Board are located at the State Water Resources Control Board, Head Quarters, located at 1001 I Street, Sacramento, California 95814. The custodian of these documents is the State Water Board, Division of Drinking Water. For more information on obtaining access to the record of the proceedings contact Office of Chief Counsel Attorney, Kim Niemeyer by email at [kim.niemeyer@waterboards.ca.gov](mailto:kim.niemeyer@waterboards.ca.gov). This information is provided in compliance with Public Resources Code section 21081.6, subdivision (a)(2), and CEQA Guidelines section 15091(e).

## **2. FINDINGS AND FACTS IN SUPPORT OF FINDINGS**

### **2.1. FINDINGS REGARDING LESS THAN SIGNIFICANT OR NO IMPACT AND THUS REQUIRING NO MITIGATION**

Consistent with Public Resources Code section 21002.1 and CEQA Guidelines section 15128, the State Water Board focused its analysis in the EIR on potentially significant impacts, and limited discussion of other impacts for which it can be concluded with certainty there is no potential for significant adverse environmental impacts. CEQA Guidelines section 15091 does not require specific findings to address environmental effects that an EIR identifies as “no impact” or a “less than significant” impact. Nevertheless, the State Water Board hereby finds that, based on substantial evidence in the whole of the record, compliance with the Proposed Regulations would have either no impact or a less than significant impact to the following resource categories. Therefore, these impacts do not require mitigation.

#### **2.1.1. Agricultural and Forest Resources**

**Impact 5-3: Compliance with the Proposed Regulations does not have the potential to conflict with zoning for, or cause rezoning of, forest land or timberland zoned as Timberland Production.**

As discussed in the Draft EIR, while hexavalent chromium detections on forested areas of northern California are sparse, there is a potential for installation of BAT or reasonably foreseeable alternative methods of compliance to occur on forest land or timberlands. It is anticipated that any construction on forest lands or timberlands inconsistent with local zoning would qualify for a utility easement or conditional use permit, which would not require rezoning of the affected land. Therefore, there is no impact.

**Impact 5-5: Compliance with the Proposed Regulations is not expected to involve other changes in the existing environment that could result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest use.**

The EIR recognized that there could be conversion of farmland, potential conflict with existing zoning for Williamson Act contracts, and loss of forest land. No other changes to the existing environment that could result in the conversion of farmland to non-agricultural use or conversion of forest land to non-forest use were identified. Therefore, there is no impact.

***2.1.2. Air Quality***

**Impact 6-5: Compliance with the Proposed Regulations is not likely to produce objectionable odors and other emissions affecting a substantial number of people.**

Temporary construction activities would involve the use of gasoline or diesel-powered equipment, which emit exhaust fumes, but these activities would occur only periodically during the construction period, and any exhaust fumes would dissipate quickly within the construction site. During the operational phase of compliance projects, objectional odors are also unlikely to occur. Even if a particular treatment system were to produce an odor during operation, its impact will be limited to the treatment plant operator or other employees or contractors of the public water system working onsite, not a substantial number of people. Therefore, this impact is less than significant.

***2.1.3. Energy***

**Impact 9-2: Compliance with the Proposed Regulations is not likely to conflict with or obstruct a state or local plan for renewable energy or energy efficiency.**

As discussed in the Draft EIR, while compliance projects that involve the installation of treatment facilities are likely to increase total electricity consumption, it would only be by a small amount. This is because most water systems will not be out of compliance with the Proposed Regulations, and of those that are, only some will decide to install new

treatment. Others may decide to drill replacement wells, blend sources, or consolidate with other public water systems, which would require minimal additional energy use, if at all. The compliance projects that involve installation of treatment facilities are unlikely to conflict with or obstruct a state or local plan for renewable energy or energy efficiency because the facilities can be powered by renewable energy and be designed efficiently, and the additional energy consumption would be relatively small compared to total energy demand. For these reasons, Impact 9-2 is less than significant.

#### ***2.1.4. Hazards & Hazardous Materials***

**Impact 12-5: Compliance with the Proposed Regulations by public water systems would not have the potential to result in a safety hazard for people residing or working in the project area for a project located within an area covered by an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport.**

As discussed in the Draft EIR, the size of the tanks to treat for hexavalent chromium are not expected to be so significant as to impact an airport. Therefore, there is no impact.

**Impact 12-6: Compliance with the Proposed Regulations by public water systems will not have the potential to result in a safety hazard for people residing or working in the project area for a project located within the vicinity of a private airstrip.**

As described above in Impact 12-5, if the treatment works or alternatives means of compliance are located near an airport, there would be no impact to the safety of people residing or working in the project area. Therefore, there is no impact.

**Impact 12-7: Compliance with the Proposed Regulations by public water systems will not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.**

As discussed in the Draft EIR, none of the reasonably foreseeable means of compliance would block emergency access to an area in the long-term, and any short-term impacts during construction would be temporary and less than significant. Therefore, there is no impact.

**Impact 12-8: Compliance with the Proposed Regulations by a public water system will not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.**

As discussed in the Draft EIR, compliance with the Proposed Regulations by a public water system is not expected to increase population or housing in the wildland areas. In addition, the treatment works would not create additional fire danger as the treatment works would be composed primarily of paved or gravel access roads, concrete pads, and

metal tanks and pipelines, which are not highly combustible materials. Therefore, there is no impact.

### ***2.1.5. Land Use and Planning***

**Impact 14-1: Compliance with the Proposed Regulations by public water systems will not physically divide an established community.**

As discussed in the Draft EIR, reasonably foreseeable compliance projects include treatment facilities, which in most cases are likely to be constructed near existing well sites. Other drinking water infrastructure, such as distribution lines or storage tanks, are discrete and isolated structures that are not large enough to physically divide a community. Some compliance projects will include installation of new drinking water pipelines, which are generally buried underground. For these reasons, reasonably foreseeable compliance projects will not physically divide established communities. Therefore, there is no impact.

### ***2.1.6. Population and Housing***

**Impact 17-1: The Proposed Regulations will not directly induce substantial unplanned population growth in an area, but compliance with the Proposed Regulations by public water systems could indirectly allow for an insubstantial population growth in areas.**

As discussed in the Draft EIR, it is possible that some public water systems will undertake projects to obtain new sources of uncontaminated drinking water and during that process will oversize those projects to allow for future growth. Similarly, public water systems that consolidate with each other to comply with the Proposed Regulations may install drinking water pipelines that allow for future development in areas where development is currently infeasible due to a lack of drinking water access. In these cases, the implementation of the compliance projects could allow for future population growth, though these are hypothetical and speculative scenarios. In addition, these allowances for future population growth are unlikely to be both unplanned and substantial. In the case of water systems sizing new supplies in excess of current demand, water systems are unlikely to size new supplies beyond the demand from planned population increases because of the cost of developing those new supplies. In the case of consolidations, there is a greater risk of unplanned growth resulting from the installation of new water transmission pipelines, yet there is no evidence that unplanned growth would be substantial. On the contrary, any unplanned growth associated with a consolidation is likely to be insubstantial due to constraints on supplies for serving new customers. Therefore, the impact is less than significant.

**Impact 17-2: Compliance with the Proposed Regulations by public water systems is not expected to displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.**

Compliance projects are not expected to occur primarily in residential areas, though some projects may, such as where an existing wellsite is in a residential area. For wells that are in residential areas, installation of treatment may be constructed on the existing site or, in some cases, on another lot in the area. In either case, installation of treatment would not require displacing substantial numbers of existing housing because of the size of treatment facilities. Similarly, construction of new wells would normally occur at sites where housing does not currently exist. Installation of new drinking water pipelines for the purchase of surface water or consolidation of public water systems generally occurs within public rights-of-way. For these reasons, consolidation projects are unlikely to result in displacement of housing units, let alone substantial numbers of housing units. Therefore, there is no impact.

**Cumulative Impacts to Population and Housing: Proposed Regulations are not expected to contribute to cumulative impacts to population and housing impacts in the state.**

As discussed in the Draft EIR and in the findings, above, related to population and housing, because the reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause significant impacts associated with substantial, unplanned population growth or housing displacement, there are no significant cumulative impacts related to these impacts. Therefore, the cumulative impacts to population and housing resources are less than significant.

#### ***2.1.7. Public Services***

**Impact 18-1: Although compliance with the Proposed Regulations by public water systems could indirectly allow for increased population growth in areas, no impacts associated with the provision of new or physically altered government facilities is expected to occur.**

As discussed in the Draft EIR, it is possible that some public water systems will undertake projects to obtain new sources of uncontaminated drinking water and will oversize those projects to allow for future growth. Similarly, consolidation pipelines installed to comply with the Proposed Regulations may allow for future development in areas where development is currently infeasible due to a lack of drinking water access. In these cases, the implementation of the compliance projects could allow for future population growth. Some projects that install numerous and complex treatment systems to comply with the Proposed Regulations may require new employment; however, the additional employment is likely to be minor and would not induce substantial population growth in the public water system's service territory.



The purpose of the Proposed Regulations is not to expand water supply, and any increase in supply is speculative and would be incidental. Any population growth therefore would not entail the expansion of public services and the construction of new government facilities. Therefore, there is no impact.

**Cumulative Impacts to Public Services: Foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with the provision of new or physically altered governmental facilities.**

Because reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with the provision of new or physically altered governmental facilities, they are not expected to contribute to cumulative impacts associated with the provision of new or physically altered governmental facilities from other projects occurring in the state. Therefore, the cumulative impacts to public services are less than significant.

#### ***2.1.8. Recreation***

**Impact 19-1: Compliance with the Proposed Regulations by public water systems will not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.**

As discussed in the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to result in unplanned population growth; however, any population growth is not expected to result in greater demand for, or use of, recreational facilities. Therefore, there is no impact.

**Impact 19-2: Compliance with the Proposed Regulations by public water systems will not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.**

Because compliance with the Proposed Regulations by public water systems will not include recreational facilities or require construction or expansion of recreational facilities, as discussed in the Draft EIR, no impact associated with the construction or expansion of recreational facilities is expected. Therefore, there is no impact.

**Cumulative Impacts to Recreation: Reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with increased use or construction or expansion of recreational facilities.**

Because the reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with increased use or construction or expansion of recreational facilities, the impacts are not expected to

contribute to cumulative impacts to recreational facilities in the state. Therefore, the cumulative impacts to recreation are less than significant.

### ***2.1.9. Transportation***

**Impact 20-4: The Proposed Regulations will not result in inadequate emergency access.**

As discussed in the Draft EIR, none of the reasonably foreseeable means of compliance would block emergency access to an area in the long-term, and any short-term impacts during construction would be temporary and less than significant. Public water systems constructing compliance projects could maintain access for emergency vehicles during construction. Therefore, there is no impact.

### ***2.1.10. Utilities and Services Systems***

**Impact 22-5: The implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations would not likely interfere with federal, state, and local management and reduction statutes and regulations related to solid waste.**

As discussed in the Draft EIR, although the implementation of BAT would generate waste, the requirements for solid waste management and reduction do not apply to the type of entities or wastes that would be at issue. Most programs for waste reduction apply either to state agencies or facilities, and there are only a few state-run public water systems. Most public water systems are operated by private entities or local jurisdictions, such as cities or districts. Similarly, waste reduction requirements for local jurisdictions apply to organic waste, and not to the type of waste that would be generated by the implementation of best available technology (BAT). Therefore, there is no impact.

### ***2.1.11. Wildfire***

**Impact 23-1: A compliance project to comply with the Proposed Regulations by public water systems will not impair an adopted emergency response plan or emergency evacuation plan, regardless of whether a project is in or near state responsibility areas or lands classified as very high fire hazard severity zones.**

As discussed in the Draft EIR, none of the reasonably foreseeable means of compliance would block emergency access to an area in the long-term, and any short-term impacts during construction would be temporary and less than significant. Public water systems constructing compliance projects would be required to maintain access for emergency vehicles during construction. Therefore, no impact to an adopted emergency response plan or emergency evacuation plan is expected.

**Impact 23-2: A compliance project by a public water system to comply with the Proposed Regulations would not exacerbate wildfire risks due to slope, prevailing winds, and other factors, exposing project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, regardless of whether it is in or near state responsibility areas or lands classified as very high fire hazard severity zones.**

As discussed in the Draft EIR, reasonably foreseeable methods of compliance with the Proposed Regulations will therefore not expose a community to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. Therefore, there is no impact.

## **2.2.FINDINGS REGARDING SIGNIFICANT EFFECTS AND MITIGATION MEASURES**

Pursuant to Public Resources Code section 21159 and CEQA Guidelines section 15187, the State Water Board performed an environmental analysis of the reasonably foreseeable methods of compliance with the Proposed Regulations. This analysis in the Draft EIR includes an analysis of the reasonably foreseeable environmental impacts of the reasonably foreseeable methods of compliance, reasonably foreseeable feasible mitigation measures, and reasonably foreseeable alternative means of compliance with the Proposed Regulations. Although the State Water Board must take into account a reasonable range of environmental, economic, and technical factors, populations and geographic areas and specific site, it is not required to engage in speculation or conjecture, nor is it required to conduct a project level analysis. (CEQA Guidelines, § 15187, subs. (d) and (e).)

At this stage in adopting the Proposed Regulations, the State Water Board is limited in how detailed its environmental analysis can be. Because the State Water Board does not know how systems will choose to come into compliance, it cannot identify with certainty the environmental impacts from individual compliance projects; therefore, the State Water Board has no way of knowing whether any of the identified mitigation measures will be effective. For these reasons, the State Water Board is limited in what findings it can make in compliance with the CEQA requirement that the findings be supported by substantial evidence. (See CEQA Guidelines, § 15091(b).)

Section 15091 of the CEQA Guidelines establishes the following requirements for findings:

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. [(CEQA Guidelines, § 15091(a)(1).)]

[This finding shall be referred to herein as “Finding (1).”]

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. [(CEQA Guidelines, § 15091(a)(2).)]

[This finding shall be referred to herein as “Finding (2).”]

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. [(CEQA Guidelines, § 15091(a)(3).)]

[This finding shall be referred to herein as “Finding (3).”]

As it pertains to Finding (3), in determining whether a mitigation measure is infeasible, the State Water Board may consider the following factors: economic, legal, social, technological, and other considerations. (Pub. Resources Code, § 21081, subd. (a)(3).) Moreover, a mitigation measure is “feasible” when it is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social,” technological and legal factors. (Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364 [adds “legal” considerations to the list of factors].)

For purposes of these findings, the State Water Board makes Finding (3) but does not make Findings (1) and (2).

Finding (3) is used where the impact remains potentially significant and unavoidable because at this programmatic stage the identified mitigation measures are infeasible because:

- (i) determining appropriate mitigation measures for future compliance project impacts is speculative at this time, due to the inability to know the specifics of projects in the future, and
- (ii) the State Water Board does not have the ability or authority to require future lead agencies to adopt and implement the identified mitigation measures into future compliance projects.

Determining appropriate mitigation measures for future compliance projects is speculative at this time for the following reasons.

As discussed in the Draft EIR, the EIR for the Proposed Regulations is a first-tier, programmatic document. The mitigation measures and analysis focus on the potential environmental impacts resulting from actions that public water systems are expected to take to comply with the Proposed Regulations. While some of the identified significant effects may be fully avoided or substantially lessened through the adoption of the mitigation measures set forth in the Draft EIR for future compliance projects, at this programmatic stage, the State Water Board cannot make this determination with confidence because the Board cannot predict how each public water system will choose to comply with the Proposed Regulations, where the site-specific compliance projects will be located, what site-specific sensitive resources may be located there, and what the potential significant environmental impacts could ultimately be. These “other considerations” in Finding (3) that make the mitigation infeasible at this programmatic stage include that it is too speculative to determine whether the proposed mitigation measures are appropriate for future compliance projects under section 21081 of the Public Resources Code. Similarly, the State Water Board cannot determine whether future lead agencies will require implementation of any of the proposed mitigation measures. (See Pub. Resources Code, § 21061.1; and also CEQA Guidelines, § 15364 [defines “feasible” as “capable of being done in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors”].)

Additionally, despite identifying the proposed mitigation measures at this programmatic stage, the State Water Board does not have the authority to require future lead agencies to adopt and implement the proposed mitigation measures for individual compliance projects. Future compliance projects are not known at this time, therefore, it is unknown which agencies will be responsible for mitigating environmental impacts from those projects. In many cases, other agencies besides the State Water Board will be lead agencies under CEQA for future compliance projects, either because the project proponent is itself a public agency, or other agencies act first on the project or otherwise satisfy the criteria for lead agency designation under CEQA. It is the responsibility of these other agencies to implement the mitigation measures identified in the Draft EIR, to the extent feasible, and these agencies can and should implement them. Because the State Water Board would not be the lead agency for many of these projects and lacks authority to require other agencies to implement mitigation measures for future compliance projects, the mitigation proposed is legally infeasible at this time. (See CEQA Guidelines, § 15364 [identifies legality as factor to be considered when considering feasibility of mitigation].)

There may be instances in which the State Water Board is a lead agency under CEQA for an individual compliance project, thereby resolving the authority issue. This possibility precludes the State Water Board from making Finding (2). Nonetheless, at this time, it is infeasible for the State Water Board to adopt and implement mitigation measures because, as discussed above, the State Water Board does not know the specific details

of individual compliance projects or when it will be the lead agency with authority to implement mitigation measures. This precludes the State Water Board from making Finding (1). When the State Water Board has the authority, it will adopt mitigation measures identified in the Draft EIR, or equally effective and feasible ones.

To summarize, while the mitigation measures identified in the Draft EIR are likely to reduce environmental impacts to less than significant levels for future compliance projects, they are, for purposes of making the findings required by section 15091 of the CEQA Guidelines, infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. The State Water Board is therefore justified in making Finding (3).

When a project's significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the "benefits of the project outweigh the significant effects on the environment." (Pub. Resources Code, § 21081, subd. (b); see also CEQA Guidelines, §§ 15043, 15093.) The following significant and potentially significant environmental impacts are unavoidable and at this time cannot be mitigated in a manner that would lessen the impact to below the level of significance. Notwithstanding disclosure of these impacts, the State Water Board adopts the Proposed Regulations due to overriding considerations as set forth in section 3 of this document. In the Statement of Overriding Considerations, the State Water Board identifies the specific factors that, in its judgment, outweigh the potential significant environmental effects that the Proposed Regulations would cause.

### ***2.2.1. Aesthetics***

#### **Impact 4-1: Compliance with the Proposed Regulations may have a substantial adverse effect on a scenic vista.**

As discussed in the Draft EIR, treatment to remove hexavalent chromium from a groundwater source will generally be installed at the well site or near it. Similarly, if a water system increases its use of uncontaminated surface water, it will likely expand its existing water treatment facility, therefore, it is unlikely to cause a new obstruction of an existing scenic vista. Likewise, installation of treatment is unlikely to substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway; or to substantially degrade the existing visual character or quality of the site and its surroundings.

Implementation of reasonably foreseeable alternative methods of compliance other than increased use of surface water have a potential to negatively affect scenic vistas, scenic resources, or scenic quality. Consolidations between two water systems or the purchase of uncontaminated water from another water system for blending may involve construction of new distribution infrastructure, such as transmission pipelines that could result in the loss of some trees or vegetation during installation. New distribution storage

tanks could potentially obstruct scenic vistas or degrade existing scenic resources or scenic quality.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 4-1 as a means to reduce Impact 4-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 4-1 would likely reduce Impact 4-1 to less than significant levels for future compliance projects, Mitigation Measures 4-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 4-2: Compliance with the Proposed Regulations may substantially damage a scenic resource.**

For similar reasons discussed in Impact 4-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 4-1 as a means to reduce Impact 4-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 4-1 would likely reduce Impact 4-2 to less than significant levels for future compliance projects, Mitigation Measures 4-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 4-3: Compliance with the Proposed Regulations may substantially degrade the existing scenic quality of a project site.**

For similar reasons discussed in Impact 4-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to substantially degrade the existing visual character or quality of public views of the sites where

compliance projects are sited, and their surroundings in non-urbanized areas, and conflict with applicable zoning and other regulations governing scenic quality in urbanized areas.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 4-1 as a means to reduce Impact 4-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 4-1 would likely reduce Impact 4-3 to less than significant levels for future compliance projects, Mitigation Measures 4-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 4-4: Compliance with the Proposed Regulations may create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.**

The method a water system chooses to comply with the Proposed Regulations could result in additional lighting and glare. For example, installation of treatment at a well site may entail the addition of lights at the site to aid in maintenance or security of the treatment facility. New distribution tanks, blending infrastructure, and expansion of surface water treatment plant projects may entail the addition of nighttime lighting.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 4-4 (as amended in the Final EIR) as a means to reduce Impact 4-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 4-4 would likely reduce Impact 4-4 to less than significant levels for future compliance projects, Mitigation Measures 4-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Aesthetics: Impacts from new infrastructure projects to comply with the Proposed Regulations, in addition to impacts caused by other projects, may result in significant and unavoidable impacts to aesthetic resources.**



As discussed in the Final EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect aesthetic resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to aesthetic resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact aesthetic resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on aesthetic resources may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to aesthetic resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to aesthetic resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

### ***2.2.2. Agricultural and Forest Resources***

**Impact 5-1: Compliance with the Proposed Regulations may have the potential to result in conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use.**

As discussed in the Draft EIR, many of the public water systems whose water supply would exceed the proposed MCL are in agricultural areas, particularly the Sacramento and San Joaquin Valleys. Therefore, installation of treatment for hexavalent chromium or adoption of reasonably foreseeable alternative methods of compliance may result in conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Wells operated by public water systems in agricultural areas may be in areas currently used for agriculture or open space and the installation of treatment at these locations may require the conversion of agricultural land. Additionally, reasonably foreseeable alternative methods of compliance through blending with a new source or consolidation may require conversion of agricultural land. Therefore, the potential for conversion of lands designated as agricultural land to non-agricultural use may be significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 5-1 as a means to reduce Impact 5-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 5-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 5-1 would likely reduce Impact 5-1 to less than significant levels for future compliance projects, Mitigation Measures 5-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 5-2: Compliance with the Proposed Regulations may have the potential to conflict with existing zoning for agricultural use or a Williamson Act contract.**

Public water systems' implementation of reasonably foreseeable means of compliance with the Proposed Regulations may include the installation of treatment tanks, pipelines, and other infrastructure, which may have the potential to result in conflict with existing agricultural zoning or Williamson Act contracts. For the reasons discussed in the Draft EIR, conflict with existing zoning for agricultural use or a Williamson Act contract may be significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 5-1 as a means to reduce Impact 5-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 5-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 5-1 would likely reduce Impact 5-2 to less than significant levels for future compliance projects, Mitigation Measures 5-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 5-4: The installation of BAT or reasonably foreseeable alternative methods of compliance may require the conversion of forest land.**

As discussed in the Draft EIR, a well may be in forested land, which requires conversion as the wellsite footprint expands to accommodate the installation of treatment. Likewise, blending with a new source or consolidation may require conversion of forest land to route pipelines or expansion of existing facilities to add tanks for storage or blending or

installation of booster pumps. Therefore, the potential for loss of forest lands may be significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measure 5-4 as a means to reduce Impact 5-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 5-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 5-4 would likely reduce Impact 5-4 to less than significant levels for future compliance projects, Mitigation Measure 5-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Agricultural and Forest Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to agricultural and forest resources from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect agricultural and forest resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact on agricultural and forest resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact agricultural and forest resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on agricultural and forest resources may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to agricultural and forest resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to agricultural and forest resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation

measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

### **2.2.3. Air Quality**

#### **Impacts 6-1: Compliance with the Proposed Regulations may result in a short-term exceedance of air quality plans and a long-term exceedance due to operational impacts.**

As discussed in the Draft EIR, the construction phase of individual compliance projects may generate emissions because of the on-site equipment and ground-disturbing activities associated with grading, compacting, and excavation that may result in a short-term exceedance of air quality plans. There may also be longer term operational impacts as a result of individual compliance projects because public water system employees or contractors will need to drive to treatment plants for maintenance and monitoring trips. The compliance projects may also lead to an increase in energy usage to power the treatment facilities, which may contribute negatively to air quality in the long term. While there is a potential for these operational long-term impacts to air quality, Coachella Valley Water District (CVWD) prepared an EIR for a treatment project for hexavalent chromium that proposed two treatment facilities and concluded that the project would not exceed the South Coast Air Quality Management District's thresholds. Because CVWD is a large system with over 100,000 service connections and most of the systems that would be affected by the MCL serve less than 10,000 service connections, it is likely that most compliance projects will similarly find during the site-specific CEQA reviews that operational impacts to air quality are not potentially significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 6-1 would likely reduce Impact 6-1 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **Impact 6-2: Compliance with the Proposed Regulations may violate air quality standards or contribute to an existing or anticipated air quality violation.**

For similar reasons discussed in Impact 6-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to violate air quality standards or contribute significantly to an existing or projected air quality violation.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 6-1 would likely reduce Impact 6-2 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 6-3: Compliance with the Proposed Regulations may expose sensitive receptors, such as schools, to substantial pollutant concentrations.**

For similar reasons discussed in Impact 6-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to expose sensitive receptors to substantial pollutant concentrations.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 6-1 would likely reduce Impact 6-3 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 6-4: Compliance with the Proposed Regulations may lead to an increase of non-attainment pollutants in areas of the state with numerous detections of hexavalent chromium above the proposed MCL.**

As discussed in the Draft EIR, while the specific location of compliance projects cannot be known at this time, the future compliance projects are likely to be primarily located in

parts of the state with numerous detections of hexavalent chromium above the proposed MCL. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. Construction of compliance projects may lead to particulate emissions and ozone formation in these counties, which may result in a cumulatively considerable net increase in non-attainment pollutants in these counties. For the reasons discussed in Impact 6-1 of the Draft EIR, the Proposed Regulations have the potential to result in a cumulatively considerable net increase of any non-attainment pollutant if a compliance project is located within a region already in non-attainment under an applicable federal or state ambient air quality standards.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 6-1 would likely reduce Impact 6-4 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Air Quality: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to air quality from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment and obtain new sources of water supply to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act, and consolidate. These infrastructure projects have the potential to adversely affect air quality. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to air quality from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact air quality in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on air quality may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to air quality would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the cumulative impacts to air quality would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### ***2.2.4. Biological Resources***

**Impact 7-1: Compliance with the Proposed Regulations may have a substantial adverse effect on any species identified as candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the CDFW or USFWS.**

As discussed in the Draft EIR, construction activities related to the reasonably foreseeable means of compliance, such as the installation of treatment, could disturb land, cause noise or vibrations that could impact special status animal species, or affect special status plants and/or critical habitat. Operation and maintenance activities of the reasonably foreseeable means of compliance could also have potential adverse effects. If a public water system were to comply with the Proposed Regulations by switching to using more surface water, this could potentially impact candidate, sensitive, special status species and/or their critical habitat. Less water in streams could adversely affect fish habitat, including causing stream temperatures to rise. Alternatively, as discussed in section 3.6 of the Final EIR, if a public water system were to comply with the Proposed Regulations by increasing its groundwater use, this could negatively impact special status aquatic and wildlife species and groundwater dependent ecosystems through drawdown of the water table. Moreover, artificial lighting from future compliance projects could alter ecological processes thereby potentially adversely impacting candidate, sensitive, or special status species and/or their critical habitat.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) and the Final EIR identifies Mitigation Measures 4-4 (as amended in the Final EIR) as a means to reduce Impact 7-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 7-1 and 4-4 would likely reduce Impact 7-1 to less than significant levels for future compliance projects, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 7-2: Compliance with the Proposed Regulations by public water systems may have a substantial adverse effect on aquatic and riparian habitat, or other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFW or the USFWS.**

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have a substantially adverse impact on aquatic and riparian habitat, or other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFW or the USFWS.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) as a means to reduce Impact 7-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 7-1 would likely reduce Impact 7-2 to less than significant levels for future compliance projects, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 7-3: Compliance with the Proposed Regulations by public water systems may have the potential to have a substantial adverse effect on state or federally protected wetlands (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.**

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have a substantially adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) and 13-3 as a means to reduce Impact 7-3 to a less than significant level. The Final EIR also identifies compliance with the requirements of California Fish and Game Code section 1602 as a means to mitigate Impact 7-3.



**Findings:** Although Mitigation Measures 7-1, 13-3, and compliance with the requirements of California Fish and Game Code section 1602 would likely reduce Impact 7-3 to less than significant levels for future compliance projects, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 7-4: Compliance with the Proposed Regulations may have the potential to interfere substantially with the movement of species and migratory movement of wildlife.**

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) as a means to reduce Impact 7-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 7-1 would likely reduce Impact 7-4 to less than significant levels for future compliance projects, Mitigation Measures 7-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 7-5: Compliance with the Proposed Regulations by public water systems may have the potential to conflict with any local policies or ordinances protecting biological resources.**

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to conflict with any local policies or ordinances protecting biological resources such as a tree preservation policy or ordinance.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) as a means to reduce Impact 7-5 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-5 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 7-1 would likely reduce Impact 7-5 to less than significant levels for future compliance projects, Mitigation Measures 7-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 7-6: Compliance with the Proposed Regulations by public water systems may have the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, Regional Conservation Investment Strategies, or other approved local, regional, or state habitat conservation plan.**

For similar reasons discussed in Impact 7-1 (as amended in the Final EIR) and 7-6 (as amended in the Final EIR), compliance with the Proposed Regulations by public water systems may have the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, Regional Conservation Investment Strategies, or other approved local, regional, or state habitat conservation plan.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) and the Final EIR identifies Mitigation Measures 13-2 (as amended in the Final EIR) as a means to reduce Impact 7-6 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-6 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 7-1 and 13-2 would likely reduce Impact 7-6 to less than significant levels for future compliance projects, Mitigation Measures 7-1 and 13-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Biological Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to biological resources from other projects occurring in the state.**

Other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect biological resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to biological resources from the Proposed Regulation may be considerable in the context of these other projects.

In addition, projects that are unrelated to the State Water Board's drinking water programs may impact biological resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on biological resources may be significant. For example, the areas with high numbers of contaminated drinking water wells within the boundaries of habitat conservation plans (HCPs) or Natural Community Conservation Planning (NCCP) Programs may be vulnerable – in the absence of mitigation measures – to the cumulative impacts from future compliance projects and other drinking water infrastructure projects. Most drinking water wells with average hexavalent chromium levels above the proposed MCL and located within the boundaries of an HCP or NCCP Program are located in either the Coachella Valley or Yolo County. As a result, cumulative impacts to candidate, sensitive and special status species; sensitive natural communities (including groundwater dependent desert communities); protected wetlands; species movement and migration; and conflicts with those plans and programs could occur within the state absent mitigation.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to biological resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to biological resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **2.2.5. Cultural Resources**

**Impact 8-1: Compliance with the Proposed Regulations by public water systems may have the potential to cause a substantial adverse change in the significance of a historical resource.**

As discussed in the Draft EIR, although construction of projects for compliance with the Proposed Regulations would likely take place within the existing footprint of public water system facilities, and adjacent to existing wells and distribution facilities, there could be situations where the public water system itself is a historical resource, the public water system was originally built on an archaeological site, or it would be necessary to construct in a previously undisturbed area that could pose a potentially significant impact to historical or archaeological resources. During construction, there is the potential to encounter and impact historical resources and archaeological resources. The types of cultural resources that may potentially be affected by construction activities include, but are not limited to, pre-colonial and historic-era archaeological sites, historic buildings, structures, human remains, and tribal cultural resources. While the operations of compliance projects are less likely to cause impacts to historical or archaeological resources, normal operations could impact these resources.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 8-1 and 21-1 as a means to reduce Impact 8-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 8-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 8-1 and 21-1 would likely reduce Impact 8-1 to less than significant levels for future compliance projects, Mitigation Measures 8-1 and 21-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 8-2: Compliance with the Proposed Regulations by public water systems may have the potential to cause a substantial adverse change in the significance of an archaeological resource.**

For similar reasons discussed in Impact 8-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5 of the CEQA Guidelines.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 8-1 and 21-1 as a means to reduce Impact 8-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 8-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 8-1 and 21-1 would likely reduce Impact 8-2 to less than significant levels for future compliance projects, Mitigation Measures 8-1 and 21-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 8-3: Compliance with the Proposed Regulations may have the potential to disturb human remains.**

For similar reasons discussed in Impact 8-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to disturb human remains.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 8-3, 8-1 and 21-1 as a means to reduce Impact 8-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 8-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 8-3, 8-1 and 21-1 would likely reduce Impact 8-3 to less than significant levels for future compliance projects, Mitigation Measures 8-3, 8-1 and 21-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Cultural Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to cultural resources from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect cultural resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to cultural resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may

impact cultural resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on cultural resources may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to cultural resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to cultural resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **2.2.6. Energy**

**Impact 9-1: Compliance with the Proposed Regulations by public water systems may have the potential to have an adverse impact on the consumption of energy resources.**

As discussed in the Draft EIR, construction of compliance projects would require electricity to power construction equipment, such as electric power tools and welders, as well as fuels to operate gasoline- or diesel- powered construction equipment. Operation of treatment plants will also entail energy consumption. Even though installation of treatment or other reasonably foreseeable means of compliance will likely require increases in energy consumption, those increases are not wasteful or unnecessary because the energy is needed to produce safe drinking water. Likewise, the energy usage is unlikely to be inefficient because public water systems must pay for the cost of energy as part of their operations and maintenance budgets; therefore, they have a financial incentive to design treatment plants and other infrastructure that do not use more energy than necessary.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 9-1 as a means to reduce Impact 9-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 9-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 9-1 would likely reduce Impact 9-1 to less than significant levels for future compliance projects, Mitigation Measures 9-1, for purposes of

making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Energy Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on energy resources from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect energy resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to energy resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact energy resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on energy resources may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to energy resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to energy resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**2.2.7. Geology and Soil**

**Impact 10-1: Compliance with the Proposed Regulations by public water systems may cause substantial adverse effects, including risk of loss, injury or death.**

As discussed in the Draft EIR, the potential substantial adverse effects, including risk of loss, injury, or death may be the result of a rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, or landslides. Numerous active faults are known to exist throughout the state that may generate earthquakes capable of

injuring people and damaging structures, including water systems and their treatment works, pipelines, and foundations. Ground shaking associated with seismic events may also cause geologic hazards such as liquefaction, subsidence, and landslides. These seismic-related effects have the potential to cause potential substantial adverse effects to the treatment tanks, their pipelines, and foundations, which could result in risk of loss, injury, or death, especially if the treatment tanks are located within an urban area or located near homes or businesses. As noted in section 2.6.1 of the Draft EIR, tanks could be very large.

Although it is anticipated that the reasonably foreseeable means of compliance, such as new treatment facilities or pipelines to intertie two systems together, could be in areas where they are susceptible to ground shaking or other seismic-related ground failure from earthquake or landslides, it is anticipated that structures built in such hazardous areas would be designed to withstand such hazards as part of the permitting process. This is what is required for the thousands of other structures that are currently located within active fault zones in California, including residential properties, commercial and industrial facilities such as existing drinking water treatment works, highways, ponds, and airports. Therefore, seismic risk may be reduced through appropriate siting, design, and construction practices.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 10-1 as a means to reduce Impact 10-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 10-1 would likely reduce Impact 10-1 to less than significant levels for future compliance projects, Mitigation Measures 10-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 10-2: Compliance with the Proposed Regulations by public water systems may have the potential to result in substantial soil erosion or loss of topsoil.**

As discussed in the Draft EIR, construction activities related to the installation of reasonably foreseeable means of compliance with the MCL may require earthwork and grading. Construction of projects for compliance with the Proposed Regulations would likely take place within the existing footprint of public water system facilities and adjacent to existing wells and distribution facilities. Construction of new wells and consolidation pipelines may also entail ground disturbance. Depending on the size and scope of the improvements, heavy equipment required for these improvements may include



bulldozers, scrapers, compactors, graders, excavators, loaders, dump-trucks, and water trucks. These activities have the potential to cause significant soil disturbance and initiate adverse soil responses such as soil erosion or loss of topsoil. During grading activities to improve undeveloped land, precipitation and runoff may initiate erosion and transport of sediment. If unabated, sediment may be transported onto adjacent properties and into receiving waters.

Controlling soil erosion is a factor in preventing water pollution, soil loss, wildlife habitat loss and human property loss. Soil erosion and runoff can degrade the quality of surface water and damage property. Topsoil is an important element in soil erosion control; topsoil often contains seeds of native shrubs and grasses, and nutrients that will promote vegetative growth and aid in erosion control.

Consequently, construction activities that disturb undeveloped areas pose a potentially significant impact to soil erosion or loss of topsoil.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 10-2 as a means to reduce Impact 10-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 10-2 would likely reduce Impact 10-2 to less than significant levels for future compliance projects, Mitigation Measures 10-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 10-3: Compliance with the Proposed Regulations by public water systems may have the potential to be located on a geologic unit or soil that is unstable or that would become unstable because of compliance projects and potentially result in on or off-site landslides, lateral spreading, subsidence, liquefaction, or collapse.**

As discussed in the Draft EIR, site-specific projects designed to comply with the proposed regulations may be located anywhere in the state, including areas underlain by unstable soils. Grading activities, including excavation, cutting/filling, and stockpiling that may be part of implementing reasonably foreseeable methods of compliance could exacerbate existing loose soil conditions, and increase potential for natural geologic hazards such as landslides, lateral spreading, subsidence, liquefaction, and collapse.

Consequently, construction activities that disturb undeveloped areas have the potential to expose and exacerbate conditions related to an unstable geological unit or weak or

sensitive soil. Therefore, it is anticipated that impacts from compliance with the Proposed Regulations on an unstable geologic unit or soil have the potential to be significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 10-3 as a means to reduce Impact 10-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 10-3 would likely reduce Impact 10-3 to less than significant levels for future compliance projects, Mitigation Measures 10-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 10-4: Compliance with the Proposed Regulations by public water systems may have the potential to be located on expansive soil that would create substantial risks to life or property.**

As discussed in the Draft EIR, and for similar reasons to those discussed in Impact 10-3 of the Draft EIR, site-specific projects designed to comply with the proposed regulations may be located anywhere in the state, including areas located on expansive soils, which could create a substantial risk to life or property.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 10-3 as a means to reduce Impact 10-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 10-3 would likely reduce Impact 10-4 to less than significant levels for future compliance projects, Mitigation Measures 10-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 10-5: Compliance with the Proposed Regulations by public water systems may lead to siting site-specific compliance projects, such as facilities for treatment, on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.**

As discussed in the Draft EIR, two of the BATs generate treatment residuals, some including wastewater products. Regeneration of strong-base ion exchange resin uses a brine solution to remove hexavalent chromium and any other contaminants. The brine may be reused if these contaminants are precipitated out of the solution, or the untreated brine may be disposed of. RCF technology similarly uses water to backwash filter media. Backwashed water may be recycled if contaminants are filtered or settled out of solution, or the untreated backwash may be disposed of. The amount of waste stream will depend on the treatment system size, and on potential opportunities to reuse or reduce the waste stream. Wastewater could either be hauled away for disposal, either to a landfill or hazardous waste disposal facility if it contains high enough concentrations of toxic waste; discharged to the sanitary sewer, if permitted by the local provider of wastewater treatment; or discharged to the ground, if permitted by the Regional Water Quality Control Board. Therefore, if on-site soils are not capable of supporting wastewater disposal treatment through an on-site septic system or other on-site system, other options may be available.

Installation of treatment or other reasonably foreseeable alternative means of compliance will consist of site-specific projects that undergo individual CEQA review to assess environmental impacts, including impacts to soils. The State Water Board anticipates that, as part of those environmental reviews for site-specific projects, the CEQA lead agencies will require compliance with local ordinances and permits to reduce potentially adverse impacts to geology and soils. In addition, there are recognized practices and mitigation measures that lead agencies may require of site-specific projects to avoid or minimize potentially adverse impacts.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 10-5 as a means to reduce Impact 10-5 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-5 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 10-5 would likely reduce Impact 10-5 to less than significant levels for future compliance projects, Mitigation Measures 10-5, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 10-6: Compliance with the Proposed Regulations by public water systems may lead to siting site-specific compliance projects in areas that are paleontologically or geologically unique.**

As discussed in the Draft EIR, site-specific projects designed to comply with the proposed regulations may be located anywhere in the state, including areas underlain by geologic units bearing unique paleontological resources or unique geologic features. Grading and trenching activities that may be part of implementing reasonably foreseeable methods of compliance could damage or destroy unique paleontological and geologic resources.

Consequently, construction activities that disturb undeveloped areas or excavate paleontological bearing geologic units or unique geological features have the potential to destroy unique paleontological and geological resources. Therefore, it is anticipated that impacts from compliance with the Proposed Regulations on unique paleontological and geological resources, have the potential to be significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 10-6 as a means to reduce Impact 10-6 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-6 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 10-6 would likely reduce Impact 10-6 to less than significant levels for future compliance projects, Mitigation Measures 10-6, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Geological and Soil Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to impacts on geological and soil resources from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect geological and soil resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to geological and soil resources

from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact geology, paleontology, and soil resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, this cumulative impact may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to geological and soil resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to geological and soil resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### ***2.2.8. Greenhouse Gas Emissions***

**Impact 11-1: Compliance with the Proposed Regulations by public water systems may have the potential to generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment.**

As discussed in the Draft EIR, future compliance projects by public water systems will likely include construction activities that entail the short-term emission of GHGs. For example, the construction of a treatment plant or drilling of a replacement well would involve construction machinery fueled by diesel or gasoline that, when combusted in engines, emit GHGs. Similarly, trucks transporting materials to and from a project site would likely require gasoline or diesel to operate, as would many of the worker vehicles. Public water system project proponents or CEQA lead agencies will be able to quantify the estimated GHG emissions from construction activities at the project site using a quantitative model such as the California Emissions Estimator Model Version by inputting specific information about the future compliance project, such as the quantity, types, size, and duration of construction equipment usage. A quantitative estimate of the GHG emissions of future compliance projects is impossible to know at this time, but it is likely that any future compliance project would entail some amount of GHG emissions because of the need for construction equipment powered by gasoline or diesel fuel. These emissions would be limited to the duration of construction and short-lived, however. Future compliance projects would also emit GHGs, directly or indirectly, through their long-term operations.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 11-1 as a means to reduce Impact 11-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 11-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 11-1 would likely reduce Impact 11-1 to less than significant levels for future compliance projects, Mitigation Measures 11-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 11-2: Although unlikely, it is conceivable that a potential conflict between a compliance project and plan, policy or regulation adopted for the purpose of reducing GHG emissions would occur.**

As discussed in the Draft EIR, it is unlikely that compliance with the Proposed Regulations by public water systems would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. While the State Water Board has directed its Division of Financial Assistance and Division of Drinking Water to assist disadvantaged communities in making their drinking water infrastructure energy efficient and powered with zero- or low-carbon energy sources (State Water Resources Control Board Resolution No. 2017-0012), the State Water Board is not aware of a plan or policy for the specific purpose of reducing GHG emissions from the drinking water sector. Public water systems are unlikely to be considered "covered entities" under the California Air Resources Board's regulations concerning the cap-and-trade program because of the nature of the industry and inclusion thresholds. (Cal. Code Regs., tit. 17, §§ 95811-12.)

Nevertheless, because future compliance projects may occur anywhere in the state, and regional or local climate action plans or other policies may apply to the project, it is conceivable that there could be a potential conflict between a proposed project and plan or policy to reduce GHG emissions. However, it is expected that a project proponent would design its project to mitigate potential conflicts.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measure 11-2, as a means to reduce Impact 11-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 11-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 11-2 would likely reduce Impact 11-2 to less than significant levels for future compliance projects, Mitigation Measures 11-2, for

purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Greenhouse Gas Emissions: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on GHG emissions from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have a potential adverse effect on GHG emissions. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impacts on GHG emissions from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may have an impact on GHG emissions in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on GHG emissions may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts on GHG emissions would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts on GHG emissions would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**2.2.9. Hazards & Hazardous Materials**

**Impact 12-1: Compliance with the Proposed Regulations by public water systems may have the potential to create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.**

The following summary of Impact 12-1 assumes that public water systems will incorporate one of the BATs identified in the Proposed Regulations into compliance projects. For a detailed discussion, see Chapter 12 of the Draft EIR.

As discussed in the Draft EIR, construction activities to install treatment facilities for hexavalent chromium or reasonably foreseeable alternative methods of compliance may involve site surface and subsurface disturbance through excavation, grading, and trenching. If hazardous materials such as pesticides or herbicides, volatile organic compounds or other hazardous materials are present in excavated soil or groundwater, hazardous materials could be released to the environment, exposing construction workers or the public to potential health risks depending on the nature and extent of contamination encountered. Contaminated soil or groundwater could also require disposal as hazardous waste. Moreover, construction activities would likely require use of hazardous materials such as fuels for construction equipment, oils, and lubricants. The types and quantities of hazardous materials would vary at each facility depending on the type and magnitude of the site-specific project.

Hazardous materials in soil and groundwater, if identified, should be managed appropriately according to applicable laws and regulations to reduce risks associated with exposures to individuals or releases to the environment. California Department of Industrial Relation's Division of Occupational Safety and Health's regulations require preparation and implementation of a site health and safety plan to protect workers who could encounter hazardous materials and ensure that construction workers have specialized training and appropriate personal protective equipment. Regulations also require that excavated materials suspected of contamination be segregated, sampled, and hauled to a landfill licensed for this type of waste. If groundwater dewatering is required for excavation of subsurface facilities, the groundwater may require treatment prior to discharge, in accordance with applicable requirements of the State Water Board and the regional water quality control boards.

The operation and maintenance of treatment works for the BAT identified in the Proposed Regulations would require chemicals to be stored on site. In addition to chemicals stored onsite for treatment, all three BATs will generate waste residuals, some of which may be hazardous. The types of waste generated by each BAT and their characteristics are discussed in more detail in section 12.4.1.2 of the Draft EIR. For the reasons discussed in Chapter 12 of the Draft EIR, impacts to the public or environment through the routine transport, use, or disposal of hazardous materials may be significant and unavoidable.

The following summary of Impact 12-1 assumes that public water systems will incorporate one of the reasonably foreseeable alternative methods to BAT into compliance projects.

As discussed in the Draft EIR, blending, drilling new wells, construction of interties, consolidation, or switching to surface water are alternative methods to BAT that would not require treatment to remove hexavalent chromium. Because these methods would not require treatment, their operation would not generate hazardous waste. However,



construction activities could result in exposure to hazardous waste, depending on existing contamination at the site of construction. Treatment using stannous chloride would not remove hexavalent chromium; instead, it would reduce it to its safer trivalent form. Therefore, stannous chloride would not create a waste stream of concentrated chromium.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 12-1 as a means to reduce Impact 12-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 12-1 would likely reduce Impact 12-1 to less than significant levels for future compliance projects, Mitigation Measures 12-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 12-2: Construction of reasonably foreseeable means of compliance and operation of BAT may involve the generation, transportation, storage, and disposal of hazardous materials, which may result in accidental release of hazardous materials into the environment.**

For similar reasons discussed in section 12.4.1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to result in accidental release of hazardous materials into the environment.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 12-1 as a means to reduce Impact 12-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 12-1 would likely reduce Impact 12-2 to less than significant levels for future compliance projects, Mitigation Measures 12-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 12-3: Compliance with the Proposed Regulations by public water systems may have the potential to cause hazardous emissions and handling of hazardous emissions within one-quarter mile of an existing or proposed school.**

For similar reasons discussed in section 12.4.1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to cause hazardous emissions and handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 12-1 as a means to reduce Impact 12-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 12-1 would likely reduce Impact 12-3 to less than significant levels for future compliance projects, Mitigation Measures 12-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 12-4: Compliance with the Proposed Regulations by public water systems may have the potential to be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and may have the potential to create a significant hazard to the public or the environment.**

This is true for the reasons set out in Impact 12-1 of the Draft EIR. Projects to treat hexavalent chromium may be located anywhere within the state, including on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5. Existing monitoring data indicates that seven wells with hexavalent chromium levels above the proposed MCL are located at sites listed pursuant to Government Code section 65962.5. Seven wells are located within Superfund site boundaries: five within the San Fernando Valley site, one in the Tracy Defense Depot site in Tracy, and one in the Watkins-Johnson Company Stewart Division Plant in Scotts Valley. Four wells are in high-potential radon zones; two wells are in Tulare County; one each are in Ventura and San Mateo Counties (Elliott 2022).

However, it is anticipated that treatment would be designed and located to be consistent with applicable land use policies and regulations. It is also anticipated that appropriate land use permits from local jurisdictions would be secured prior to construction of

treatment facilities, and that they would be developed in compliance with general plans and zoning ordinances establishing design guidelines such as minimum setbacks.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 12-4 as a means to reduce Impact 12-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 12-4 would likely reduce Impact 12-4 to less than significant levels for future compliance projects, Mitigation Measures 12-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts on Hazards and Hazardous Materials: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts from hazards and hazardous materials caused by other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely contribute to hazards and hazardous materials impacts. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to hazards and hazardous materials from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may affect hazards and hazardous material impacts in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impacts of hazards and hazardous materials may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts of hazards and hazardous materials would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts of hazards and hazardous materials would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

### **2.2.10. Hydrology and Water Quality**

**Impact 13-1: Compliance with the Proposed Regulations by public water systems may have the potential to result in violation of water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.**

As discussed in the Draft EIR, impacts related to the construction of site-specific projects, such as the installation of treatment, drilling of new wells, expansion of surface water treatment plants, construction of interties with other public water systems, installation of infrastructure to allow for blending contaminated water with uncontaminated sources, and consolidations between public water systems could result in erosion and siltation from earthwork. Earthwork may include grading, excavation, soil stockpiling, compacting, and trenching for pipeline installation. Such work could temporarily alter existing drainage patterns and expose soils, which could be moved offsite by wind and water. If not properly managed, this could increase sediment loads in surface water bodies near project sites. Construction activities that disturb more than one acre of soil would need to enroll in the NPDES construction stormwater general permit program and implement a stormwater pollution prevention plan.

Reasonably foreseeable means of compliance that include the installation of concrete and other above-ground infrastructure, such as tanks, could also permanently alter existing drainage patterns by increasing impervious surfaces, potentially exceeding the capacity of existing or planned stormwater drainage systems, or providing additional sources of runoff.

Operation and maintenance impacts to hydrology and water quality may occur from two of the BATs identified in the Proposed Regulations. For a more thorough discussion on the operation and maintenance impacts see section 13.4.1.2 of the Draft EIR.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-1 as a means to reduce Impact 13-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-1 would likely reduce Impact 13-1 to less than significant levels for future compliance projects, Mitigation Measures 13-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 13-2: Compliance with the Proposed Regulations by public water systems may substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level, impeding sustainable groundwater management of a basin.**

As discussed in the Draft EIR, concrete surfaces and compaction of soils related to the construction of site-specific projects could interfere with groundwater recharge. Moreover, the operation of certain types of site-specific projects could have impacts on groundwater supplies. Although public water systems would arguably not increase groundwater use because of the Proposed Regulations, some reasonably foreseeable means of compliance could result in a shift from one source of groundwater to another, putting additional pressure on that new source. Similarly, intertying to or consolidating with a nearby system that relies on an uncontaminated aquifer could decrease groundwater supplies of that aquifer. Increased pumping would not have a significant impact in many places; however, in critically over drafted basins, increased pumping may contribute to cumulative impacts.

Treatment for hexavalent chromium would not substantially increase pumping to meet the drinking water supply for public water system customers. The source supply would just be run through the treatment to ensure that it meets the drinking water standard for hexavalent chromium. However, in some situations, additional water pressure would be necessary to run the treatment, and a booster pump may be necessary. For a more detailed discussion, see section 13.4.2.2 of the Draft EIR.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-2 (as amended in the Final EIR) as a means to reduce Impact 13-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-2 would likely reduce Impact 13-2 to less than significant levels for future compliance projects, Mitigation Measures 13-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead

and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 13-3: Compliance with the Proposed Regulations by public water systems has the potential to substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a river, stream, or minor drainage, or through the addition of impervious surfaces in a manner which would result in substantial erosion or siltation on- or off- site.**

As discussed in the Draft EIR, impacts related to the construction of site-specific projects, such as the installation of treatment, drilling of new wells, expansion of surface water treatment plants, construction of interties with other public water systems, installation of infrastructure to allow for blending contaminated water with uncontaminated sources, and consolidations between public water systems could result in drainage impacts. Grading, excavation, soil stockpiling, compacting, and trenching for pipeline installation could temporarily alter existing drainage patterns by altering existing topographic and drainage features. Compaction of soils by heavy equipment could decrease the infiltration rates, causing ponding on-site and increased runoff, which could result in erosion or siltation on-or off-site.

Reasonably foreseeable means of compliance that include the installation of impervious surfaces such as concrete, and above-ground infrastructure, such as tanks, prevent natural drainage and infiltration of storm water through soil, and permanently alter existing drainage patterns. The increase in impervious surfaces can increase surface water runoff volume and rate, which may exceed the capacity of existing or planned stormwater drainage systems, causing erosion and siltation on and off site.

As such, the installation of site-specific compliance projects has the potential to cause a significant impact to drainage.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-3 would likely reduce Impact 13-3 to less than significant levels for future compliance projects, Mitigation Measures 13-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 13-4: Compliance with the Proposed Regulations by public water systems may have the potential to substantially alter the existing drainage pattern of the site or area, which could result in flooding on- or off-site.**

As discussed in the Draft EIR, this may occur through the alteration of the course of a stream or river or through the addition of impervious surfaces in a manner which would increase the rate or amount of surface runoff, resulting in flooding on- or off-site.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-3 would likely reduce Impact 13-4 to less than significant levels for future compliance projects, Mitigation Measures 13-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 13-5: Compliance with the Proposed Regulations by public water systems may have the potential cause capacity exceedance of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.**

As discussed in the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-5 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-5 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-3 would likely reduce Impact 13-5 to less than significant levels for future compliance projects, Mitigation Measures 13-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead

and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 13-6: Compliance with proposed regulations by public water systems may have the potential to impede or redirect flood flows.**

As discussed in the Draft EIR, this may occur because compliance projects by public water systems might substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces in a manner which would impede or redirect flood flows.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-6 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-6 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-3 would likely reduce Impact 13-6 to less than significant levels for future compliance projects, Mitigation Measures 13-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 13-7: Compliance with the Proposed Regulations by public water systems may increase the risk of release of pollutants due to inundation of the treatment projects in flood hazard, tsunami or seiche zones.**

As discussed in the Draft EIR, many areas of California are prone to flooding, especially low-lying portions of the Central Valley, the Sacramento-San Joaquin Delta, the Russian River Watershed, low-lying coastal areas without sufficient protection from surf or storms, desert washes located in California's desert areas, and additional areas where levees, dams, stormwater containment, and other flood containment infrastructure are not sufficient. Even areas protected by levees are susceptible to flooding in the event of high-intensity storms of long duration. Given the widespread extent of potential flooding hazards in many areas of California, the risk of flooding may not be completely unavoidable. FEMA provides information on flood hazard and frequency for cities and counties on its Flood Insurance Rate Maps. FEMA identifies designated zones to indicate flood hazard potential.

Tsunami and seiche are natural responses to events such as earthquakes, prolonged rainy periods, or strong winds. The California Geological Survey has developed tsunami inundation maps that delineate areas with significant risk of tsunami inundation. Based



on existing information, the State Water Board believes that there are no affected wells with hexavalent chromium above 10 ppb that are within a tsunami zone (Elliott 2022).

Any new infrastructure related to the reasonably foreseeable means of compliance would be located where public water systems already exist. Therefore, the Proposed Regulations would not be putting public water systems into risk; that risk of inundation already exists if they are located within a flood hazard, tsunami or seiche zone. Inundation of the reasonably foreseeable means of compliance, however, could impair public water systems' ability to provide drinking water that meets drinking water standards, and chemicals kept on-site for the purpose of treating drinking water could be released into the environment.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-7 as a means to reduce Impact 13-7 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-7 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-7 would likely reduce Impact 13-7 to less than significant levels for future compliance projects, Mitigation Measures 13-7, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 13-8: Compliance with the Proposed Regulations by public water systems could potentially cause a conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.**

As discussed in the Draft EIR, wastewater from treatment operations may be discharged to a local sanitary sewer system if the local system agrees that its facilities can handle the waste. If wastewater from treatment operations cannot be discharged to the sanitary sewer system, the public water system could apply to be able to discharge the waste to land. If the discharge to land is done without compliance with regional water quality control board requirements, it could potentially cause a conflict with, or obstruct implementation of, a water quality control plan.

Public water systems may also try to drill wells in deeper aquifers to obtain water that meets the MCL to comply with the regulations. If additional groundwater is pumped from an aquifer that is subject to the Sustainable Groundwater Management Act, and the pumping is not in compliance with the groundwater sustainability plan adopted by the groundwater sustainability agency, the site-specific project could cause conflict with or obstruct a groundwater management district's plan.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 13-8 as a means to reduce Impact 13-8 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-8 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 13-8 would likely reduce Impact 13-8 to less than significant levels for future compliance projects, Mitigation Measures 13-8, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Hydrology and Water Quality: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to hydrology and water quality from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect hydrology and water quality. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to hydrology and water quality from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact hydrology and water quality in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on hydrology and water quality may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to hydrology and water quality would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to hydrology and water quality would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines,

are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

### **2.2.11. Land Use and Planning**

#### **Impact 14-2: Compliance with the Proposed Regulations by public water systems may result in a conflict with land use plans.**

As discussed in the Draft EIR, it is not possible at this programmatic stage to know whether site-specific compliance projects will conflict with applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance). Future compliance projects may occur anywhere in the state. During environmental review of future projects, the CEQA lead agencies will conduct focused environmental reviews of the projects' site-specific effects, including conflicts with land use plans, policies, or regulations. In some cases, there may be a potential conflict, but the State Water Board expects that project proponents and lead agencies will mitigate those potential conflicts through project design, land use approval terms, or other measures.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 14-2 as a means to reduce Impact 14-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 14-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 14-2 would likely reduce Impact 14-2 to less than significant levels for future compliance projects, Mitigation Measures 14-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **Cumulative Impacts to Land Use and Planning: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on land use and planning from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect land use and planning.

Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to land use and planning from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact land use and planning in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on land use and planning may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to land use and planning would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to land use and planning would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **2.2.12. Mineral Resources**

**Impact 15-1: Compliance with the Proposed Regulations by public water systems could potentially result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.**

As discussed in the Draft EIR, if a public water system must construct new water system components such as treatment or a blending tank to comply with the Proposed Regulations, those components would likely be in areas already occupied by the existing water system and the community or business that the water system serves. However, new components could be situated in such a way that could result in the loss of immediate access to some mineral resources. The footprint of these new components would be small relative to significant mineral deposits and would also be situated in areas already occupied by water system infrastructure. Restricting access to mineral resources is usually less than significant when the project area is small relative to the mineral resource deposit. Hard rock mines are not hampered by infrastructure on the surface because the minerals can be accessed via underground tunnels. Aggregate mines which tend to cover large surface areas can avoid important infrastructure by excavating around it and leaving enough ground intact to access and support the structure. Because there is a potential for compliance works to be constructed anywhere in the state, there is the potential for conflict with preserving access to mineral resources.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measure 15-1 as a means to reduce Impact 15-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 15-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measure 15-1 would likely reduce Impact 15-1 to less than significant levels for future compliance projects, Mitigation Measure 15-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 15-2: Compliance with the Proposed Regulations by public water systems may result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.**

As discussed in the Draft EIR, if a public water system must construct new water system components such as treatment or a blending tank to comply with the Proposed Regulations, those components would likely be in areas already occupied by the existing water system and the community or business that the water system serves. However, for similar reasons discussed in Impact 15-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have a significant effect on locally important mineral resource recovery sites.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measure 15-2 as a means to reduce Impact 15-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 15-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measure 15-2 would likely reduce Impact 15-2 to less than significant levels for future compliance projects, Mitigation Measure 15-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Mineral Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on mineral resources from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect mineral resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to mineral resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact mineral resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on mineral resources may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to mineral resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to mineral resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

### **2.2.13. Noise**

**Impact 16-1: Compliance with the Proposed Regulations by public water systems may result in substantial temporary increases in ambient noise levels from the construction of projects to comply with the Proposed Regulations.**

As discussed in the Draft EIR, heavy equipment, including graders and excavators, may be required, as well as power tools and portable generators. Noise impacts may also occur from operations of compliance projects. Installation of new groundwater wells could increase ambient noise levels in the immediate vicinity of the sites. For projects involving the installation of treatment at an existing well site, there may be minimal changes to noise. Nevertheless, operational noise impacts from future compliance projects will depend on the specifics of the projects and the environment, and the noise ordinances or regulations of the cities or counties in which the projects are located.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 16-1 as a means to reduce Impact 16-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 16-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 16-1 would likely reduce Impact 16-1 to less than significant levels for future compliance projects, Mitigation Measures 16-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 16-2: Compliance with the Proposed Regulations by public water systems may generate ground borne vibration or ground borne noise levels, particularly during construction of future compliance projects.**

Vibration can result from the use of construction equipment and can impact surrounding sensitive receptors. The level of impact depends upon the equipment used, the distance to the affected structure, and the soil type. Although it is impossible in this EIR to estimate vibration impacts because those impacts will depend on site-specific factors, public water systems can estimate project-related vibration impacts using the Federal Transit Authority's vibration assessment methodology. Different jurisdictions may have restrictions on vibration, and it is possible that some future compliance projects may generate short-term vibrations that exceed local restrictions.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 16-1 as a means to reduce Impact 16-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 16-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 16-1 would likely reduce Impact 16-2 to less than significant levels for future compliance projects, Mitigation Measures 16-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 16-3: Compliance with the Proposed Regulations by public water systems may have the potential to expose people residing or working within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, to excessive noise levels.**

As explained in Impact 16-1 of the Draft EIR, future compliance projects may entail noise during construction and operation that, unless mitigated by project proponents or permitting agencies, may be significant. Future compliance projects may be located anywhere in the state, including near public airports or private airstrips.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 16-1 as a means to reduce Impact 16-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 16-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 16-1 would likely reduce Impact 16-3 to less than significant levels for future compliance projects, Mitigation Measures 16-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Noise: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to noise and vibration from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect noise. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to noise from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact noise in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on noise may be significant.



**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to noise would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to noise would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **2.2.14.           *Transportation***

**Impact 20-1: Compliance with Proposed Regulations could conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.**

As discussed in the Draft EIR, reasonably foreseeable means of compliance with the Proposed Regulations do not constitute transportation infrastructure that would be subject to programs, plans, ordinances, or policies addressing the circulation system. To the extent that such plans apply to non-transportation projects that affect the circulation system indirectly, there could be minor impacts, however. For instance, in many cases, a reasonably foreseeable means of compliance with the Proposed Regulations could result in additional usage of the circulation system, particularly roadways for public water system employees and contractors conducting routine monitoring and maintenance, and for deliveries of supplies to the public water system. The impact on vehicle miles traveled is likely to be minimal. Whether this indirect impact on the circulation system would constitute a conflict with a program, plan, ordinance, or policy addressing the circulation system is speculative at this programmatic stage.

It is possible that programs, plans, ordinances, or policies pertaining to the circulation system exist in areas where future compliance projects will occur. In these cases, the construction of a reasonably foreseeable means of compliance with the Proposed Regulations could conflict with such a program, plan, ordinance, or policy. During CEQA review of the compliance project and its site-specific impacts, the project proponent and lead agency would be required to implement any feasible mitigation measures to reduce potential conflicts to less than significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 20-1 as a means to reduce Impact 20-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 20-1 would be

potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 20-1 would likely reduce Impact 20-1 to less than significant levels for future compliance projects, Mitigation Measures 20-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 20-2: Compliance with Proposed Regulations could conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).**

CEQA Guidelines section 15064.3, subdivision (b) requires agencies to consider vehicle miles traveled when analyzing a project's impacts on transportation.

As discussed in the Draft EIR, water systems must conduct routine water quality testing under the Proposed Regulations, including monthly sampling where source water is treated. It is anticipated that public water systems will conduct sampling for hexavalent chromium while they sample for other contaminants under existing regulations. If public water systems did not consolidate water quality sampling for hexavalent chromium with sampling for other contaminants, they would conduct twelve sampling trips per year specifically for hexavalent chromium. Monitoring for hexavalent chromium is not expected to be done separately from monitoring for contaminants with existing MCLs.

To estimate the number of miles per monitoring or operations and maintenance trip, the State Water Board used a geographic information system (GIS) to estimate the average longest straight line across service areas of public water systems in California. That GIS dataset is available at the [California Drinking Water System Area Boundaries](#) website. Using the Minimum Bounding Geometry and other GIS tools, the State Water Board staff estimated the average longest straight line across service areas of public water systems in California to be seven miles. Accordingly, on average, and in a worst-case scenario, a monitoring or operations and maintenance trip would entail 14 miles, assuming that the public water system's headquarters and the well being monitored or maintained are on opposite ends of the longest straight line across the system's service area. Using the range of potential annual trips (8,016 to 10,020), the Proposed Regulations could result in 112,224 to 140,280 vehicle miles traveled each year.

This is a highly conservative estimate, and, in many cases, public water system employees will not be traveling the longest straight line across their system to monitor or maintain a particular treatment site. It is possible that contractors will be traveling to and from a farther distance outside the water system's boundaries, though it is infeasible to estimate those distances at this time. In addition, monitoring and maintenance trips are likely to be consolidated to avoid an inefficient expenditure of water system resources.

Thus, trips are likely to consist of fewer miles, as public water systems visit multiple well sites on a single trip and the vehicle miles per trip decrease to far less than 14.

Compliance projects involving the installation of treatment may also cause additional vehicle miles traveled because of waste disposal. Depending on site-specific conditions and the details of future, site-specific projects, some public water systems that install treatment for hexavalent chromium will need to dispose of waste byproducts of treatment, such as spent resin, sludge, and brine. The frequency and distance of trips to dispose of those waste materials will depend on the treatment technology that a water system deploys; the concentrations of hexavalent chromium and other potentially hazardous material, such as arsenic and uranium, in the water source; the rate at which water is treated; and the system's capacity to store waste temporarily on-site. Because these specific characteristics of future compliance projects are not currently known, it is not feasible to estimate the additional vehicle miles traveled because of waste disposal.

For these reasons and as discussed in the Draft EIR, the Proposed Regulations will likely result in additional vehicle miles traveled.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measure 20-2 as a means to reduce Impact 20-2 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 20-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measure 20-2 is likely to reduce Impact 20-2 to less than significant levels for future compliance projects, Mitigation Measure 20-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 20-3: Compliance with Proposed Regulations could substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).**

As discussed in the Draft EIR, however, the Proposed Regulations are not likely to substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). In most cases, public water systems are not expected to construct new roads or modify existing roads when implementing reasonably foreseeable means of compliance with the Proposed Regulations. Groundwater treatment will be located at or near wellheads, where there is already existing access for water quality sampling and operations and maintenance. Likewise, expansion of a surface water treatment plant to accommodate lost groundwater supplies contaminated with hexavalent chromium would occur at existing surface water

treatment plants, where access necessarily already exists. Blending of existing sources or purchasing of surface water would not require construction of new roadways, either. Consolidations among public water systems often occur within rights-of-way of existing roadways where distribution lines are constructed and would generally not require modification of the roadway. Nevertheless, it is possible that some compliance projects in undeveloped areas may require construction of access roads. Unless potential design hazards are mitigated during the design of the project and CEQA review by the lead agency, it is possible that the Proposed Regulations would result in an increase in hazards due to design features such as sharp curves or dangerous intersections.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 20-3 as a means to reduce Impact 20-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 20-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 20-3 would likely reduce Impact 20-3 to less than significant levels for future compliance projects, Mitigation Measures 20-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Transportation: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on transportation from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect transportation. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to transportation from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact transportation in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on transportation may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to transportation would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to transportation would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **2.2.15. Tribal Cultural Resources**

**Impact 21-1: Compliance with the Proposed Regulations may have the potential to cause a substantial adverse change in the significance of a tribal cultural resource listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1, subdivision (k).**

As discussed in the Draft EIR, impacts to tribal cultural resources would most likely result from site-specific construction projects. While some construction impacts, such as auditory impacts would be temporary, others such as grubbing or trenching through Native American cultural heritage sites would be permanent. The operation of treatment facilities or other means of compliance are much less likely to cause impacts to tribal cultural resources, but like construction impacts, must be evaluated on an individual project-level basis.

Because the installation of treatment and other means of compliance with the Proposed Regulations could occur anywhere in the state, there is a potential to significantly impact tribal cultural resources. Project specific impacts, in many cases, can be avoided or mitigated when tribal cultural resources in the proposed project area are identified early in project planning. Best practices for the identification of tribal cultural resources in the project area typically begin with a cultural resources investigation including a records search from the appropriate regional information center of the California Historical Resources Information System, a Sacred Lands File search from the Native American Heritage Commission (NAHC), outreach letters to tribes on the NAHC tribal contact list, and a pedestrian survey of the project area by qualified archaeologist in coordination with tribes culturally affiliated with the geographic area of the site. Consultation with tribes who have requested project notification from the lead agencies pursuant to Public Resources Code sections 21080.3.1 and 21080.3.2 is key to identifying tribal cultural resources, especially those that are intangible, for assessing the significance of impacts to known tribal cultural resources, and for determining appropriate methods to mitigate those

impacts. Even when tribal cultural resources are identified early in planning, if they cannot be avoided by construction, potentially significant and unavoidable impacts may occur.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 21-1 and 8-1 as a means to reduce Impact 21-1 to a less than significant level. As discussed in the Draft EIR, some Mitigation Measures identified in 21-1 are statutory and regulatory requirements under CEQA and therefore must be incorporated into specific compliance projects to the extent required by the specific statute and regulation.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 21-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 21-1 and 8-1 would likely reduce Impact 21-1 to less than significant levels for future compliance projects, Mitigation Measures 21-1 and 8-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Cultural Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on tribal cultural resources from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect tribal cultural resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to tribal cultural resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact tribal cultural resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on tribal cultural resources may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to tribal cultural resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to tribal cultural resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**2.2.16. Utilities and Service Systems**

**Impact 22-1: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may have the potential to require relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.**

As discussed in the Draft EIR and Final EIR, installation of BAT, drilling new wells, blending with an uncontaminated source, and consolidating with another public water system would all require new, expanded, or modified public water system facilities. New and expanded facilities may cause impacts, as described throughout the Draft EIR, though those impacts may be mitigated to less than significant by project proponents and public agencies approving the projects. Construction and operation of facilities may also cause a variety of impacts, which are detailed throughout the Draft EIR. Treatment facilities would likely be installed near existing wells and within the existing footprint of public water system facilities. Furthermore, it is anticipated that construction of the reasonably foreseeable methods of compliance would be in areas that are already disturbed. Nevertheless, construction and operation of reasonably foreseeable means of compliance may cause significant environmental effects. Facilities constructed to comply with the Proposed Regulations will also require energy, which may require construction of power lines. Expansion of surface water facilities could require upgrades to existing utilities. Moreover, although there is speculation that wastewater treatment facilities could also be indirectly affected by the Proposed Regulations and require upgrades to equipment to address hexavalent chromium, the Draft EIR in section 22.3.1 and Final EIR in section 3.8 explain why there will not be significant impacts to wastewater treatment facilities.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 22-1 as a means to reduce Impact 22-1 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 22-1 would likely reduce Impact 22-1 to less than significant levels for future compliance projects, Mitigation Measures 22-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 22-2: Compliance with the Proposed Regulations may have the potential to cause public water systems to not have sufficient water supplies available for current and future needs during normal, dry, and multiple dry years.**

As discussed in the Draft EIR, because the purpose of the Proposed Regulations is to set an MCL for hexavalent chromium to ensure that water provided by public water systems is protective of public health, the project will have a beneficial impact on the water supply generally. The Proposed Regulations could, however, impact water supplies available to serve reasonably foreseeable future development during normal, dry, and multiple dry years. For example, existing regulations authorize the State Water Board to require that public water systems discontinue the use of a source if the concentration of the inorganic chemical exceeds ten times the MCL. (Cal. Code Regs., tit. 22, § 64432, subd. (h)(2).) Several public water systems are known to have levels of hexavalent chromium that exceed that threshold, and there is a possibility that after systems start monitoring more will be identified. This could cause the system to not have sufficient water supplies available to serve its customers. However, this would be a temporary impact because the public water system could continue to use the source after treatment is installed. In addition, public water systems with no other options could receive permission to continue to use the source. (*Id.*)

Similarly, the installation of treatment could reduce the amount of water available for delivery to customers. The amount of water required for the operation of treatment depends upon the design of the treatment system. The amounts needed could impact available water supplies, especially during multiple dry years.

Reasonably foreseeable alternative methods of compliance could also have an impact on water supply. Drilling new wells in a different aquifer, relying more on surface water instead of contaminated groundwater, intertying or consolidating with other public water systems, and blending sources of contaminated water with uncontaminated sources, could affect the availability of supplies to serve other reasonably foreseeable future development during normal, dry, and multiple dry years. Although reasonably foreseeable alternative methods of compliance would not change the amount of water used by public water systems to serve their customers, the source of water in these methods of compliance would change, potentially impacting development that might also depend on those same sources.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measure 22-2 as a means to reduce Impact 22-2 to a less than significant level.



**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measure 22-2 would likely reduce Impact 22-2 to less than significant levels for future compliance projects, Mitigation Measure 22-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 22-3: Compliance with the Proposed Regulations by public water systems may result in a determination by the wastewater treatment provider that serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

As discussed in the Draft EIR, the operation of the BAT may result in waste streams that are not suitable for disposal in the local sanitary sewer and could require additional treatment before discharge would be allowed. In addition to potentially having to treat, public water systems will need to ensure that the local wastewater treatment facility has capacity.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 22-3 as a means to reduce Impact 22-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 22-3 would likely reduce Impact 22-3 to less than significant levels for future compliance projects, Mitigation Measures 22-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 22-4: The implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may generate solid waste more than State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.**

As discussed in the Draft EIR, the implementation of BAT is the only reasonably foreseeable means of compliance that would generate solid waste. The amount of waste

generated would, in part, depend upon the design of the system. Most of the BAT would generate solid and liquid waste that would need to be disposed of. For a more detailed discussion on Impact 22-4, see section 22.3.4 of the Draft EIR.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measure 22-4 as a means to reduce Impact 22-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measure 22-4 would likely reduce Impact 22-4 to less than significant levels for future compliance projects, Mitigation Measures 22-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Utilities and Service Systems: Implementation by public water systems of reasonably foreseeable means of compliance with the proposed regulation may contribute to cumulative impacts to utilities from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect utilities and service systems. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to utilities and service systems from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact utilities and service systems in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on utilities and service systems may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to utilities and service systems would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to utilities and service systems would reduce the incremental contribution

from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

#### **2.2.17. Wildfire**

**Impact 23-3: A project undertaken by a public water system to comply with the Proposed Regulations located in or near state responsibility areas or lands classified as very high fire hazard severity zones could require the installation or maintenance of infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.**

As discussed in the Draft EIR, public water systems may need to install and maintain infrastructure, such as power lines, pipelines, and water sources, and treatment facilities. There is a potential that the installation of these facilities could exacerbate fire risk or result in temporary or ongoing impacts to the environment. Therefore, it is anticipated that the impact is potentially significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 23-3 as a means to reduce Impact 23-3 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 23-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 23-3 would likely reduce Impact 23-3 to less than significant levels for future compliance projects, Mitigation Measures 23-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 23-4: A project undertaken by a public water system to comply with the Proposed Regulations located in or near state responsibility areas or lands classified as very high fire hazard severity zones has the potential to expose people or structures to significant risks, including downslope or downstream flooding or landslides, because of runoff, post-fire slope instability, or drainage changes.**

As described in the Draft EIR, while installation of treatment is expected to result in modest expansion of facility footprints, installation of treatment and other reasonably foreseeable alternative methods of compliance, such as pipelines, may entail ground disturbance, creation of impervious surfaces, soil compaction, and conversion of forest

land, which may cause changes in runoff, post-fire instability, and drainage. Therefore, the impact is considered potentially significant.

**Mitigation Measures:** The Draft EIR identifies Mitigation Measures 23-4 as a means to reduce Impact 23-4 to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 23-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although Mitigation Measures 23-4 would likely reduce Impact 23-4 to less than significant levels for future compliance projects, Mitigation Measures 23-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Cumulative Impacts to Wildfire Risk: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulation may contribute to cumulative impacts on wildfire risks from other projects occurring in the state.**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect wildfire risk. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact on wildfire risk from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact wildfire risk in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact to wildfire risk may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to wildfire risk would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts on wildfire risks would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of

making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**2.2.18. Mandatory Findings of Significance**

**Impact 24-1: Although it is unlikely that the individual projects undertaken to comply with the Proposed Regulations would substantially degrade the quality of the environment, including substantially impacting fish, wildlife, or plant species, or eliminating important cultural sites, the State Water Board took a conservative approach in its Draft EIR findings and recognized the potential for significant impacts to occur.**

As discussed in the Draft EIR, because future compliance projects are unknown at this time, the State Water Board cannot predict what exactly those projects' impacts will be or the precise mitigation measures that will be required to reduce potential impacts to less than significant. Project-level impacts and mitigation measures will be addressed in future site-specific environmental analyses conducted by CEQA lead agencies approving those projects.

**Mitigation Measures:** The mitigation measures discussed above are likely to reduce environmental impacts to a less than significant level.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that the environmental impacts would be potentially significant and unavoidable. These potentially adverse impacts are overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although the mitigation measures discussed above would likely reduce the significant potentially significant and unavoidable environmental impacts to less than significant levels for future compliance projects, the mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 24-2: Compliance with the Proposed Regulations by public water systems may result in potentially significant cumulative impacts.**

The findings above and individual resource chapters and Chapter 3 of the Draft EIR demonstrate that compliance with the Proposed Regulations by public water systems may result in potentially significant cumulative impacts.

**Mitigation Measures:** See Chapter 3 and individual resource chapters of the Draft EIR for a discussion on cumulative impacts and mitigation measures.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that potentially significant cumulative impacts were identified for all resource chapters but Population and Housing, Public Services and Recreation.

**Findings:** Although implementation of the project-level mitigation measures would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**Impact 24-3: Compliance projects implemented by public water systems have the potential to result in environmental effects that cause substantial adverse effects on human beings, either directly or indirectly**

As discussed in the Draft EIR, the Proposed Regulations will have a beneficial impact on human beings. Reducing hexavalent chromium in drinking water provided by public water systems will protect the health of Californians and is expected to result in approximately 892 less cancer cases over 70 years statewide. (SWRCB 2023a, sec. 5.2.5.) Nonetheless, compliance projects implemented by public water systems have the potential to result in environmental effects that cause substantial adverse effects on human beings, either directly or indirectly.

**Mitigation Measures:** The mitigation measures discussed above are likely to reduce the potential for the compliance projects to have environmental effects which will cause substantial adverse effects on human beings, directly or indirectly, to a less than significant level.

**Findings:** Although the mitigation measures would likely reduce the potential to have environmental effects which will cause substantial adverse effects on human beings, directly or indirectly, to less than significant levels for future compliance projects, the mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

**2.2.19. Cumulative Impacts**

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect cumulative impacts to

the resources identified above except population and housing, public services, and recreation. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impacts to the resources discussed above from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact these resources that are in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impacts to these resources may be significant.

**Significance After Mitigation:** The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to the resources discussed above would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

**Findings:** Although implementation of the project-level mitigation measures to address the impacts to the resources discussed above would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).) For individual findings regarding cumulative impacts, refer to the individual resource chapters above.

## **2.3.FINDINGS REGARDING FEASIBILITY OF PROJECT ALTERNATIVES**

Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives . . . which would substantially lessen the significant environmental effects of such projects." CEQA requires agencies to consider, in its EIR, a reasonable range of alternatives to a proposed project or to the location of the proposed project which would "feasibly attain most of the basic objectives of the project." (CEQA Guidelines, § 15126.6(a).) An agency may reject project alternatives if it finds them to be "infeasible." (Pub. Resources Code, § 21081 subd. (a)(3); CEQA Guidelines, § 15091(c)(3).)

### **2.3.1. Feasibility of Alternatives**

To determine whether a mitigation measure or alternative is infeasible, as that term is used in CEQA and the CEQA Guidelines, an agency must necessarily weigh and balance its pros and cons, taking account of a broad range of factors. Public agencies may consider "economic, legal, social" and "technological" factors in making its feasibility determination. (Pub. Resources Code, § 21081, subd. (a)(3); see *Tiburon Open Space Committee v. County of Marin* (2022) 78 Cal.App.5th 700, 732–733 [Mitigation measures and alternatives that conflict with agency's legal obligations are infeasible and "need not be analyzed."].) A public agency may also consider "other" factors that it believes are

relevant to the infeasibility analysis. (Pub. Resources Code, § 21081, subd. (a)(3).) For example, an agency may conclude that an alternative is impractical or undesirable because it is inconsistent with agency goals or policies and reject it as infeasible on that ground. (See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002 [When making infeasibility findings the agency determines how competing interests should be resolved].) Similarly, an alternative may be found infeasible because it does not fully satisfy important project objectives. (See *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18 [Alternatives would not achieve core objective of promoting winery development with by-right permitting to same extent as proposed project].) Moreover, a mitigation measure is “feasible” when it is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social,” technological and legal factors. (Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364 [adds “legal” considerations to the list of factors].)

The State Water Board analyzed a reasonable range of alternatives in the Draft EIR. For the reasons discussed below, the State Water Board finds that these alternatives are infeasible, and that the adoption of the Proposed Regulations is the most desirable, feasible, and appropriate action.

#### **2.3.1.1. Alternative # 1: No Project Alternative**

**Summary of Alternative #1:** As discussed in the Draft EIR, this no project alternative is the continuation of the State Water Board’s drinking water regulatory program without a primary drinking water standard for hexavalent chromium. Under this alternative public water systems would not need to install treatment for hexavalent chromium or implement alternative means of compliance. For example, public water systems would not have to construct treatment plants, new wells, surface water infrastructure, or consolidation pipelines to supply the public with drinking water that meets the MCL for hexavalent chromium. Public water systems with hexavalent chromium contamination above the proposed MCL would continue to serve that water to their customers, continuing the present risk to public health from hexavalent chromium in California drinking water supplies. The environmental impacts of projects specifically intended for compliance with the Proposed Regulations would not occur.

Under the no project alternative, public water systems subject to the California Safe Drinking Water Act would need to continue meeting existing primary drinking water standards and it is reasonably likely that in the future, primary drinking water standards will include previously unregulated contaminants, such as n-nitroso dimethylamine (NDMA), and newly emerging contaminants, such as per- and poly-fluoroalkyl substances (PFOA and PFOS). In addition, every three years, public water systems with more than 10,000 service connections that detect hexavalent chromium at a level above the PHG would be required to prepare a report for the public that identifies hexavalent chromium in the water, discloses information about the health impacts, the number of persons impacted, the type and cost of treatment to remove hexavalent chromium and what if



anything the water system is doing to reduce hexavalent chromium from the water delivered to customers. (Health & Saf. Code, § 116470, subd. (b).)

In most cases, the means of compliance with these other existing and future standards will be similar to compliance with the proposed MCL for hexavalent chromium: installation of treatment (though the specific method of treatment will vary according to contaminant and public water system preference) or addition of an uncontaminated source. Therefore, many of the environmental impacts that would result from the Proposed Regulations are likely to occur even if the no project alternative is selected.

**Finding:** For purposes of making the findings required by section 15091 of the CEQA Guidelines, the State Water Board finds that Alternative #1 is infeasible.

**Analysis Supporting Finding:** As explained above in section 2.3.1, the State Water Board may consider “economic, legal, social, technological, or other” factors in making its feasibility determination, including its policies and project objectives. (Pub. Resources Code, § 21081, subd. (a)(3)); see *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002; and also *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.)

The no project alternative would not meet any of the project objectives. The no project alternative would not avoid significant risks to public health or reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium because public water systems would not remove hexavalent chromium, a contaminant known to cause cancer and other health issues, from drinking water. Additionally, the no project alternative would not comply with the statutory requirements under Health and Safety Code section 116365.5. The State Water Board has a statutory requirement, under the California Safe Drinking Water Act, to adopt a primary drinking water standard for hexavalent chromium. (Health & Saf. Code, § 116365.5.) The no project alternative directly conflicts with the State Water Board’s legal obligation to adopt a primary drinking water standard for hexavalent chromium. Therefore, in consideration of its legal obligation under section 116365.5 of the Health and Safety Code and its obligation to regulate drinking water to protect public health (see Health & Saf. Code, §§ 116270, 116350), the State Water Board finds that Alternative #1 is not a feasible alternative.

#### **2.3.1.2. Alternative # 2: Addition of Stannous Chloride Reduction Treatment to List of BATs**

**Summary of Alternative #2:** As discussed in the Draft EIR, under Alternative #2, stannous chloride reduction treatment would be added as a BAT. Currently, the Proposed Regulations identify ion exchange, RCF, and reverse osmosis as the BATs for removing hexavalent chromium from drinking water. Although the State Water Board is required when it adopts an MCL to identify treatment technologies that can consistently and reliably remove the contaminant to a concentration at or below the proposed MCL, the

designation of a BAT does not preclude a public water system from receiving a domestic water supply permit that allows the use of alternative treatment technologies capable of sufficiently treating to the MCL.

Stannous chloride reduction treatment involves the application of stannous chloride without filtration. This method would not remove hexavalent chromium; instead, it would reduce it to its trivalent form. (Dummer 2021, p.8.) Therefore, unlike RCF, which removes hexavalent chromium by filtration and is identified as a BAT, stannous chloride reduction treatment would not create a waste stream of concentrated chromium that would require disposal of potentially hazardous spent resins, filters, brine, or sludge. However, because the trivalent chromium precipitate is not removed by filtration and remains in the water, there could be a potential for trivalent chromium to reoxidize to hexavalent chromium in the distribution system. In addition, there could be a potential impact to water quality resources by exceeding the maximum use level for stannous chloride as a drinking water additive. More information is needed to fully understand the impacts of using stannous chloride reduction treatment.

Stannous chloride reduction treatment requires installation of a treatment system, including a chemical storage tank and a chemical metering pump. The chemical storage tank would be designed with a secondary container to prevent leaks. The treatment system would be installed inside the existing well head building, if one exists, or inside a chemical feed shed constructed next to the well head and occupying a small footprint. Because no filtration or coagulation is required, stannous chloride reduction treatment requires a much smaller footprint than the treatments that have been identified as BATs. In the case of a well with an existing wellhead building, there would be no additional footprint at all.

Although stannous chloride reduction treatment may be less costly than the BATs identified in the Proposed Regulations, it is not clear from the existing data that it is safe, effective, and reliable.

For a more detailed discussion on stannous chloride treatment, see sections 2.6.3.5, 3.2.3.5, and 26.2.2 of the Draft EIR.

**Finding:** For purposes of making the findings required by section 15091 of the CEQA Guidelines, the State Water Board finds that Alternative #2 is infeasible.

**Analysis Supporting Finding:** As discussed above, the State Water Board must weigh and balance its pros and cons taking into consideration a broad range of factors in determining whether an alternative is infeasible. The State Water Board may consider “economic, legal, social, technological, or other” factors in making its feasibility determination, including its policies and project objectives. (Pub. Resources Code, § 21081, subd. (a)(3)); see *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002; and also *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.) When analyzing whether an alternative is infeasible, the

State Water Board can determine how competing interests should be resolved. (See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002.)

The State Water Board considers the following factors in making its infeasibility finding regarding Alternative #2:

- **The use of stannous chloride reduction treatment may be less costly than other forms of treatment for hexavalent chromium.** The State Water Board understands that stannous chloride reduction treatment may be more cost-effective for treating hexavalent chromium in drinking water, compared to ion exchange treatment or RCF treatment. The availability of technological options to reduce the costs of compliance with the proposed MCL is an important factor in the Board's consideration. Importantly, as discussed below and elsewhere in the rulemaking documents, the Proposed Regulations do not prohibit the use of stannous chloride reduction treatment. Therefore, designation of stannous chloride reduction treatment as a BAT under Alternative #2 will not, on its own, reduce the costs of compliance with the proposed MCL. While it is possible that designation as a BAT may cause more water systems to consider stannous chloride reduction treatment, it is more probable that water systems will opt for whichever compliance method is the most cost-effective and technologically feasible method for their particular system, regardless of which treatment methods the State Water Board designates as a BAT.
- **The use of stannous chloride reduction treatment may result in less hazardous waste produced as a byproduct of compliance with the proposed MCL, compared with ion exchange or reverse osmosis.** If water systems that would have installed ion exchange or reverse osmosis instead install—and receive permits to operate—hexavalent chromium treatment facilities using stannous chloride reduction, there may be less hazardous waste produced because of treatment, as discussed in Chapter 12 of the Draft EIR. This may reduce the environmental impact of the Proposed Regulations because there would be less need for the handling, transportation, and disposal of hazardous waste.
- **Stannous chloride reduction treatment has not been proven effective under full-scale field applications. (See Health & Saf. Code, § 116370.)** While there have been pilot and small-scale field studies on the application of stannous chloride reduction treatment by a public water system to treat for hexavalent chromium, there have not been full-scale field applications demonstrating its efficacy and safety. Alternative #2 has not yet been analyzed on a full-scale, which raises concerns regarding the efficacy and safety of the treatment method for designation as a BAT. Without full-scale field applications, it is not possible to know whether the treatment method is proven effective, or to assess its costs and benefits, at scale.

- **More information is needed concerning the effects of stannous chloride reduction treatment within distribution systems.** More information is needed to understand how time in the distribution system affects oxidation of trivalent chromium to hexavalent chromium, and whether water systems can treat hexavalent chromium with stannous chloride without exceeding the maximum use level for stannous chloride as a drinking water additive. In addition, stannous chloride and chromium have been shown to deposit and accumulate onto piping and other media, adding to concerns about the fate of both stannous chloride and chromium in the distribution system. (Kennedy et al. 2020.) More data is needed to ensure that stannous chloride reduction treatment is safe and effective for designation as a BAT.
- **The State Water Board submitted the scientific basis for the Proposed Regulations to an external scientific peer review panel, which supported the Board's decision to not designate stannous chloride reduction treatment as a best available treatment method.** As described in the Initial Statement of Reasons (ISOR) and the Draft EIR, 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](#). Two out of three reviewers concluded that more information was needed about stannous chloride reduction treatment to justify designating it as a BAT for treating hexavalent chromium from drinking water. The third reviewer concluded that stannous chloride reduction treatment might be appropriate under conditions in which performance data and treatment costs are available. The scientific peer review supports the Board's decision to not designate stannous chloride reduction treatment as a BAT because of the lack of data on its efficacy and safety at full-scale.
- **Public water systems may still be able to deploy stannous chloride reduction treatment for particular compliance projects even if the State Water Board does not designate the treatment method as a BAT.** Public water systems may use stannous chloride reduction treatment regardless of whether the State Water Board adopts the Proposed Regulations or Alternative #2. In either case, a water system would need a permit from the State Water Board to use stannous chloride reduction treatment. Even under the Proposed Regulations, the State Water Board may determine on a case-by-case basis that stannous chloride reduction is an acceptable treatment method for a particular system and permit its use by a particular water system. This may occur in situations where the water

system can demonstrate with additional data its effectiveness for their specific system and that there are no adverse public health consequences.

The State Water Board has considered the above factors and finds that Alternative #2 is infeasible. While the possibility that stannous chloride reduction treatment may produce less potentially hazardous waste compared with other forms of treatment is compelling, it is premature to designate the treatment method as a BAT due to the lack of data on its efficacy and safety, including from full-scale field applications. This is supported by the external scientific peer review. In addition, while the treatment method may be more cost-effective than others, the decision to not designate it as a BAT is unlikely to affect the cost of compliance because the Proposed Regulations do not prohibit the use of stannous chloride reduction treatment. On balance, these factors support the State Water Board's finding that Alternative #2 is infeasible.

### **2.3.1.3. Alternative # 3: Alternative MCL Values of 1-9 and 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 25, 30, 35, 40, and 45 micrograms per liter**

**Summary of Alternative #3:** Under this alternative, the State Water Board would adopt a different MCL value than the proposed value of 10 ug/L. The State Water Board described twenty alternative MCL values in its ISOR. These alternative MCL values included 1-9 ug/L, 11-15 ug/L, 20, 25, 30, 35, 40, and 45 ug/L. For purposes of this EIR, the State Water Board considers each of these alternative MCL values as an alternative to the proposed MCL of 10 ug/L.

At each alternative MCL value, a different number of drinking water sources in the state would require treatment or an alternative means of compliance. Fewer sources would exceed a higher, less health protective MCL. To see the estimated number of contaminated sources at each alternative MCL value, based on existing data, see Table 26-1 in the Draft EIR. As Table 26-1 shows, at higher alternative MCL values, fewer public water systems would have to install treatment or implement alternative means of compliance. Accordingly, a higher MCL value would likely have less environmental impact due to compliance projects by affected public water systems than the proposed MCL value of 10 ug/L.

As the number of contaminated sources differs at each alternative MCL value, geographical differences emerge, too. To see the estimated number of counties with contaminated sources at each alternative MCL value, see Table 26-2.

As Table 26-2 shows, at higher alternative MCL values, public water systems required to treat for hexavalent chromium would become less geographically widespread. Accordingly, a higher alternative MCL value would likely have less environmental impact than the proposed MCL value of 10 ug/L. To better convey these geographical differences, Appendix E contains maps that show the geographic distribution of contaminated sources at each alternative MCL value.

**Finding:** For purposes of making the findings required by section 15091 of the CEQA Guidelines, the State Water Board finds that Alternative #3 is infeasible.

**Analysis Supporting Finding:** As explained above in section 2.3.1, the State Water Board may consider “economic, legal, social, technological, or other” factors in making its feasibility determination, including its policies and project objectives. (Pub. Resources Code, § 21081, subd. (a)(3)); see *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002; and also *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.)

The State Water Board considers the following factors in making its infeasibility finding regarding Alternative #3:

- **The extent to which alternative MCL values would entail more or fewer environmental impacts from future compliance projects.** As discussed above and in the Draft EIR, higher MCL values are expected to entail fewer environmental impacts, while lower MCL values are expected to entail greater environmental impacts. This is because at higher MCL values, fewer public water systems would install treatment or undertake other compliance projects; the impacts from the individual compliance projects themselves do not necessarily change at the different MCL values – i.e. the environmental impacts of installing treatment to treat to 10 ppb would not be significantly different than treating to 25 ppb.
- **The extent to which project objectives are met.** The reduction of cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium varies in accordance with the specific MCL value. As discussed in section 26.3 of the Draft EIR (as amended in the Final EIR), the ISOR demonstrates that MCL values higher than the proposed MCL of 10 ppb would still reduce cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium compared to the status quo, but less so than the proposed value of 10 ppb would.
- **MCL values for hexavalent chromium higher than 10 ppb are legally infeasible alternatives because they are not as close as feasible to the corresponding PHG of 0.02 ppb. (See section 26.3 of the Draft EIR as amended in the Final EIR.)** The State Water Board is statutorily required to adopt a primary drinking water standard for hexavalent chromium that is as close as feasible to the corresponding PHG, placing primary emphasis on the protection of public health. (Health & Saf. Code, § 116365.) While the Draft EIR analyzes alternative MCL values, the State Water Board is statutorily constrained in its ability to adopt an alternative MCL value that is not the lowest technologically and economically feasible value, even if that alternative MCL value may entail fewer environmental impacts. (*Ibid.*) It follows that if the State Water Board finds that the proposed MCL of 10 ppb is technologically and economically feasible, then any alternative MCL

value higher than 10 ppb would not be “as close as feasible” to the PHG of 0.02 ppb. The State Water Board found the proposed MCL of 10 ppb to be technologically and economically feasible, therefore the alternative MCL values discussed in Alternative #3 that are higher than 10 ppb are legally infeasible. (SWRCB 2023a, sec. 11.2.)

- **Increasing the MCL value does not significantly decrease household costs without significantly reducing health benefits for any system size category.** (SWRCB 2023a, sec. 11.4.) Although the State Water Board must consider technological and economic feasibility, the State Water Board must place primary emphasis on the protection of public health in adopting an MCL value for hexavalent chromium. (Health & Saf. Code, § 116365.) If the State Water Board were to adopt an MCL higher than the proposed value of 10 ppb, the cost savings would be small compared to the reductions in health benefits.
- **As stated in the ISOR, the State Water Board’s reason for rejecting the alternative MCLs is also supported by a cost-effectiveness analysis in the Standardized Regulatory Impact Assessment (SRIA).** (SWRCB 2023b, sec. F.4.) Alternative MCLs greater than 10 ppb have either roughly similar or lower cost effectiveness compared to 10 ppb, and MCLs below 10 ppb are less cost effective than 10 ppb.
- **Alternative MCL values below 10 are economically infeasible.** In general, costs to public water systems and consumers would increase for alternative MCLs less than 10 ppb. (See SWRCB 2023a, sec. 11.) Therefore, at alternative MCL values less than 10 ppb, public water systems may struggle to meet future drinking water standards due to limited economic capacity. As explained in section 11.10 of the ISOR, alternative MCL values below 10 are economically infeasible. Therefore, the State Water Board cannot adopt these alternative MCL values under the California Safe Drinking Water Act, which requires that the MCL be set as close as economically feasible to the PHG. (Health & Saf. Code, § 116365).

The State Water Board has considered the above factors and finds that Alternative #3 is infeasible. While the alternative MCL values lower than 10 ppb would be more protective of public health, they would entail more environmental impacts and are not economically feasible. Alternative values greater than 10 ppb would entail fewer environmental impacts but are not as close as technologically and economically feasible to the PHG of 0.02 ppb. On balance, these factors support the State Water Board’s finding that Alternative #3 is infeasible.

## **2.4.FINDINGS REGARDING RECIRCULATION OF THE DRAFT EIR**

Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR for public review but prior to certification of the Final EIR. The term “information” can include changes in the project or environmental setting, as well as

additional data or other information. (CEQA Guidelines, § 15088.5(a).) New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. (*Ibid.*) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. (*Id.*, subd. (b).) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record. (*Id.*, subd. (e).)

The State Water Board finds that the amendments made to the Draft EIR do not add “significant new information” because the Board merely makes minor non-substantive edits and adds clarifying language where helpful to understanding the State Water Board’s determinations. In compliance with section 15132 of the CEQA Guidelines, the changes to the Draft EIR can be found in Chapter 3 of the Final EIR.

None of the changes will deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible mitigation measure or project alternative. This is true especially because the State Water Board’s initial conclusions regarding potential environmental impacts to the environment are not altered in Chapter 3 of the Final EIR. Similarly, the minor changes do not impact any mitigation measure or project alternative analyses in a significant way. Moreover, although the State Water Board made minor modifications to the reporting requirements and added two documents to the record, through two [15-day notice periods](#), neither the changes to the regulation nor the addition of the documents to the record constitute significant new information because they do not indicate that a new substantial environmental impact will result from the Proposed Regulations, thus the public is not deprived of a meaningful opportunity to comment on the environmental impacts of the Proposed Regulations. The changes made to the Draft EIR merely clarify or amplify or make insignificant modifications to an already adequate EIR. Therefore, the Draft EIR does not need to be recirculated.

### **3. STATEMENT OF OVERRIDING CONSIDERATIONS**

When an agency approves a project with significant environmental effects that will not be avoided or substantially lessened, it must adopt a statement disclosing that because of the project’s overriding benefits, it is approving the project despite its environmental harm. (Pub. Resources Code, § 21081, subd. (b); CEQA Guidelines, §§ 15043, 15093.) The agency must set forth the reasons for its action, based on the final EIR and other information in the record, in a statement of overriding considerations. (CEQA Guidelines, § 15093(b).)

CEQA requires the agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when



determining whether to approve the project. (CEQA Guidelines, § 15093(a).) If the specific benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.” (Ibid.)

Determining a project's benefits and the weight to be given them, when balanced against the project's environmental impacts, is highly discretionary, but must be supported by substantial evidence in the record. (CEQA Guidelines, § 15093(b).) An agency's determination that a project's benefits outweigh significant effects that cannot be mitigated "lies at the core of the lead agency's discretionary responsibility under CEQA." (*City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 368.)

As set forth in the findings, the Proposed Regulations will result in potentially significant and unavoidable environmental impacts, and there are no feasible project alternatives which would mitigate or substantially lessen the impacts. Despite the occurrence of the potentially significant and unavoidable impacts, the State Water Board chooses to approve the Proposed Regulations because the benefits that the Proposed Regulations will produce outweigh the potentially significant and unavoidable environmental impacts. The State Water Board adopts the Proposed Regulations despite its potential environmental harm, for the following reasons:

- **In adopting the Proposed Regulations, the State Water Board will comply with its statutory obligation under section 116365.5 of the Health and Safety Code to adopt a primary drinking water standard for hexavalent chromium.** Section 116365.5 of the Health and Safety Code was effective January 1, 2002, and it required that the Department of Health Services “commence the process for adopting a primary drinking water standard for hexavalent chromium that complies with the criteria established under” section 116365 of the Health and Safety Code. The Department of Health Services was required to “establish a primary drinking water standard for hexavalent chromium on or before January 1, 2004.” (Health & Saf. Code, § 116356.5.) The Department of Health Services did not adopt a primary drinking water standard for hexavalent chromium in 2004 and therefore did not meet the statutory deadline. This statutory duty was then transferred to the Department of Public Health on July 1, 2007. (See Health & Saf. Code, § 131052.) In 2013, the Department of Public Health proposed an MCL of 10 ppb for hexavalent chromium and it was approved by the Office of Administrative Law and became effective July 1, 2014. Also effective July 1, 2014, the Department of Public Health’s authorities, duties, powers, purposes, functions, responsibilities, and jurisdiction for the purpose of the administration of the California Safe Drinking Water Act were transferred to the State Water Board. (See Health & Saf. Code, § 116271.) In 2017, the Superior Court of Sacramento County invalidated the MCL for hexavalent chromium and ordered the State Water Board to adopt a new one. Today, the statutory responsibility to adopt a primary drinking water standard for hexavalent chromium is with the State Water Board and is more than 20 years overdue. In adopting the Proposed Regulations, the State Water Board will finally

fulfill the statutory obligation under section 116365.5 of the Health and Safety Code. This benefit weighs in favor of adoption, despite the potential environmental consequences of the Proposed Regulations.

- **Adopting the Proposed Regulations will avoid significant risks to public health from drinking water supplied by public water systems in California and reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium.** As discussed in the Draft EIR and ISOR, hexavalent chromium is toxic and is known to cause cancer. The total number of cancer cases avoided by a MCL value of 10 ppb over 70 years is 898. (Chapter 3 of Final EIR.) Hexavalent chromium has also been found to have non-cancer effects in the form of liver toxicity. (SWRCB 2023a, sec. 3.1.) An MCL for hexavalent chromium that is as close to the PHG as possible would decrease public exposure to hexavalent chromium and therefore decrease the risk of associated adverse health effects. (SWRCB 2023a, sec 5.2.) The estimated 5.5 million people affected by this MCL will see the exposure to hexavalent chromium in their drinking water decrease by an average of approximately 30 percent, thus significantly reducing the risk of associated adverse health effects. (SWRCB 2023a, sec. 5.2.) The State Water Board finds that avoiding significant risks to public health from drinking water and reducing the risk of cancer and non-cancer health risks is a benefit that weighs in favor of adopting the Proposed Regulations despite the potential environmental consequences.
- **The State Water Board is statutorily required to adopt a primary drinking water standard for hexavalent chromium that is as close as feasible to the corresponding PHG, placing primary emphasis on the protection of public health. (Health & Saf. Code, § 116365.)** Pursuant to Health and Safety Code, section 116365, the State Water Board is statutorily constrained in its ability to adopt an alternative MCL value that is not the lowest technologically and economically feasible value, even if that alternative MCL value may entail fewer environmental impacts. It follows that if the State Water Board finds that the proposed MCL of 10 ppb is technologically and economically feasible, then any alternative MCL value higher than 10 ppb would not be “as close as feasible” to the PHG of 0.02 ppb. The State Water Board found the proposed MCL of 10 ppb to be technologically and economically feasible, therefore any alternative MCL values higher than 10 ppb are legally infeasible. (SWRCB 2023a, sec. 11.2.) Moreover, as explained in section 11.10 of the ISOR, alternative MCL values below 10 ppb are economically infeasible. For these reasons, the Proposed Regulations, which sets the MCL for hexavalent chromium at 10 ppb, complies with Health and Safety Code, section 116365. This is another benefit that weighs in favor of adopting the Proposed Regulations despite the potential environmental consequences.
- **Under the Proposed Regulations, public water system customers will be informed when hexavalent chromium is detected in their drinking water or when it exceeds the MCL.** The Proposed Regulations will result in increased transparency to public water system customers regarding the presence of a

harmful contaminant in their water. Under section 64463.4 of title 22 of the California Code of Regulations, public water systems will be required to deliver notices to consumers when their drinking water exceeds the proposed MCL for hexavalent chromium. In addition, public water systems will be required to notify their customers of the presence of hexavalent chromium via their annual consumer confidence reports. The public can access information about hexavalent chromium in their drinking water through the Division of Drinking Water's [California Drinking Water Watch](#) website.

Lastly, the State Water Board has been conservative in its post-mitigation significance impact conclusions that the various impacts will be potentially significant and unavoidable. As explained in the Draft EIR and above, most of the mitigation measures identified by the State Water Board to address the environmental impacts would likely reduce the impacts from the Proposed Regulations to less than significant. However, at this programmatic stage, the State Water Board cannot make this determination with confidence because the Board cannot predict how each public water system will choose to comply with the Proposed Regulations, where the site-specific compliance projects will be located, what site-specific sensitive resources may be located there, and what the potential significant environmental impacts could ultimately be. Moreover, the State Water Board does not have the authority to require future lead agencies to adopt and implement the proposed mitigation measures for individual compliance projects. It is the responsibility of these other agencies to implement the mitigation measures identified in the Draft EIR, to the extent feasible, and these agencies can and should implement them. Compliance projects will most likely trigger CEQA and CEQA Guidelines, in which case lead agencies will need to perform an independent environmental review and adopt mitigation measures when necessary. The potentially significant and unavoidable impacts to the environment identified in these findings will most likely be mitigated to less than significant at the individual project level by these lead agencies. While this may not necessarily constitute a "beneficial" factor under CEQA Guidelines section 15093(b), it indicates that the potential impacts may be less significant.