



September 5, 2024

Via U.S. Mail and Email

Dr. David Edwards, Acting Director
Office of Environmental Health Hazard Assessment
1001 I Street, P.O. Box 4010
Sacramento, CA 95814

OEHHA'S FIVE-YEAR REVIEW OF THE PERCHLORATE PUBLIC HEALTH GOAL

Dear Acting Director Edwards:

We are writing to follow up on the Southern California Water Coalition and the Association of California Water Agencies' April 4, 2023 request that the Office of Environmental Health Hazard Assessment (OEHHA) commence its five-year review of the public health goal (PHG) for perchlorate. The perchlorate PHG was last revised in 2015 and is now more than four years overdue for a five-year review. Over one year after the submission of our initial request,¹ it remains unclear whether OEHHA will commence its five-year review of the perchlorate PHG before the State Water Resources Control Board (SWRCB) determines, potentially as early as 2027, whether to revise the perchlorate maximum contaminant level (MCL).²

The primary focus of our initial request was the need to develop the most accurate PHGs possible based on the latest scientific data and using the most current principles, practices, and methods in human health risk assessments for contaminants in drinking water. This remains a key consideration of our request, but we write now to emphasize the growing importance and pressing need for closer coordination between OEHHA and the SWRCB in developing and revising California's drinking water standards. As discussed below, the SWRCB's adoption of the

¹ OEHHA has yet to formally respond to our original request, which is enclosed.

² The SWRCB is currently gathering statewide occurrence data down to the perchlorate detection limit for reporting purposes (DLR) of 1 part per billion, which took effect January 1, 2024. The SWRCB expects to complete this work by the first quarter of 2027.

MCL for hexavalent chromium (Cr(VI)) in the midst of OEHHA's update of the underlying PHG serves as a cautionary tale not just for perchlorate, but for all future drinking water standards.

Like the perchlorate PHG, the Cr(VI) PHG was also overdue for a five-year review. OEHHA initiated its review of the Cr(VI) PHG in 2016 and seemingly closed it in mid-2022, only to re-open it in March 2023 to consider additional scientific information, including information previously submitted in response to its 2016 data call-in and studies identified in OEHHA's own literature searches. OEHHA's review of the Cr(VI) PHG continues today. OEHHA has yet to finalize the draft health protective concentration (HPC) it proposed in November 2023 for noncancer effects, which is 2.5 times higher than the existing noncancer HPC of 2 parts per billion. OEHHA also has yet to issue a first draft HPC for cancer effects of Cr(VI).

Just two months after OEHHA re-opened its review of the Cr(VI) PHG, the SWRCB in June 2023 initiated a rulemaking to adopt a proposed Cr(VI) MCL. The SWRCB adopted the proposed Cr(VI) MCL in April 2024, despite acknowledging in its Resolution that "[f]inalization of a PHG update will likely take at least another year to complete, including development of a health-protective concentration for cancer effects of hexavalent chromium." In its Resolution, the SWRCB addressed the incongruent PHG- and MCL-development timelines by "[directing] staff to continue to monitor OEHHA's update of the PHG for hexavalent chromium, and to amend the MCL, as required by section 116365 of the Health and Safety Code, if any updated PHG indicates that hexavalent chromium may present a materially different risk to public health than was previously determined."

The Cr(VI) MCL is effective October 1, 2024, notwithstanding ongoing uncertainty regarding the final PHG and the impact of a revised PHG on the public health benefits, economic feasibility, cost-effectiveness, and affordability analyses supporting the SWRCB's adoption of the MCL. If a revised Cr(VI) PHG indeed necessitates amendment of the MCL due to materially different public health risks, it will be too late to undo the significant fiscal and economic consequences that will have already come to pass. Public water systems will have already incurred significant capital, operations, and maintenance costs to comply with the lower MCL to avoid enforcement actions and penalties. These costs will have already been passed through to the public in the form of higher water rates, including residential customers that live in disadvantaged communities and cannot afford any further rate increases. Grant monies from overextended drinking water funds will have already been awarded by the SWRCB to public water systems seeking to comply with the lower MCL. Once expended, these funds would then no longer be available to mitigate exposures

to contaminants such as PFOS and PFOA, arsenic, and disinfection by-products, each of which is expected to be a major regulation with an estimated economic impact exceeding \$50 million. If this pattern is repeated for other contaminants like perchlorate, the combined fiscal and economic consequences will have a devastating impact on the state's ability to achieve the Human Right to Water, especially in the growing number of communities served by failing and at-risk water systems. While it is too late to avoid these consequences for the Cr(VI) MCL, they can still be avoided for other drinking water contaminants like perchlorate through the orderly adoption of MCLs based on, and preceded by, PHGs published by OEHHA that are grounded in the best available scientific data and most current principles, practices, and methods in human health risk assessments for contaminants in drinking water, as required by the California Safe Drinking Water Act.

We again ask that OEHHA commit to commencing and completing its update of the perchlorate PHG before the SWRCB initiates its review of the existing perchlorate MCL. We appreciate your consideration, and look forward to your response. Please contact us at cwilson@socalwater.org or (949) 632-2074 to arrange for a meeting at your earliest opportunity to discuss our request.

Sincerely,



Charles Wilson, Executive Director
Southern California Water Committee



Nicholas Blair, State Relations Advocate II
Association of California Water Agencies

Enclosure

Cc: Christine Hironaka, Deputy Cabinet Secretary, Governor's Office
Yana Garcia, Secretary for Environmental Protection, CalEPA
Anna Naimark, Deputy Secretary and Special Counsel for Water Policy, CalEPA
Scott Lichtig, Deputy Secretary for Environmental Policy
Joaquin Esquivel, Chair, SWRCB

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