

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
FEBRUARY 2, 2016**

ITEM 2

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING CRITERIA AND DELEGATING AUTHORITY PERTAINING TO EXTENSION OF TIME FOR PUBLIC WATER SYSTEMS TO ACHIEVE COMPLIANCE WITH THE PRIMARY DRINKING WATER STANDARD FOR HEXAVALENT CHROMIUM

DISCUSSION

On July 1, 2014, the State Department of Public Health adopted regulations which established a primary drinking water standard maximum contaminant level (MCL) for hexavalent chromium. Public water systems classified as community water systems and non-transient non-community water systems must comply with the MCL. The regulations include requirements for monitoring to determine compliance. For some public water systems, compliance requires corrective action such as the design, finance, and construction of treatment facilities or other infrastructure projects. The regulations required that water systems complete their initial monitoring by January 1, 2015. At this time, some public water systems are in violation of the MCL and are subject to potential enforcement action by the State Water Resources Control Board's (State Water Board's) Division of Drinking Water.

Senate Bill (SB) 385, signed by the Governor on September 4, 2015, provides public water systems with additional time to come into compliance with the hexavalent chromium MCL during which time it will not be deemed in violation of the MCL. SB 385 was an urgency bill and, therefore, the new law became effective immediately. SB 385 added Section 116431 to the Health & Safety code (HSC), that includes authority for the State Water Board to implement, interpret, or make specific the provisions thereof by means of criteria, published on its Internet Web site exempt from rulemaking requirements of the Administrative Procedure Act.

HSC section 116431 authorizes the State Water Board to grant a public water system a period of time to achieve compliance with the MCL for hexavalent chromium by means of the State Water Board's written approval of the public water system's proposed compliance plan. A public water system must submit its plan to achieve compliance within the shortest possible period of time; obtain State Water Board approval of the compliance plan; provide public notification to its customers; and submit status reports on its plan implementation to the State Water Board. The compliance plan must describe the actions the water system is taking and will take to achieve compliance. Section 116431 also specifies that the time period for water systems to achieve compliance may not extend beyond January 1, 2020. The Division of Drinking Water has developed draft criteria titled "*Hexavalent Chromium MCL Compliance Period Implementation Criteria*" that more definitely describe the process the State Water Board will follow for implementation of SB 385, requirements for a compliance plan, public notification requirements, source monitoring, status reports, etc. Said draft criteria are attached hereto as Attachment '1' and also may be found at:

http://www.swrcb.ca.gov/drinking_water/certlic/drinkingwater/documents/lawbook/sb8385_hex_chromium_comp_criteria_fnl.pdf

POLICY ISSUE

Should the State Water Board:

1. Adopt the draft criteria prepared by the State Water Board's Division of Drinking Water for implementation of SB 385 (California Health & Safety Code, section 116431) and approve said criteria for publication on its internet website?
2. Delegate to the Executive Director or his delegee all authority to approve modifications to said criteria?

FISCAL IMPACT

There is no fiscal impact and no funds are being requested.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

The State Water Board should adopt the proposed Resolution.

<p>State Water Board action on this item will assist the Water Boards in reaching Goal 4 of the Strategic Plan Update: 2008-2012, to comprehensively address water quality protection and restoration, and the relationship between water supply and water quality, and describe the connections between water quality, water quantity, and climate change, throughout California's water planning processes.</p>

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2016-

ADOPTION OF CRITERIA AND DELEGATION OF AUTHORITY PERTAINING TO EXTENSION OF TIME FOR PUBLIC WATER SYSTEMS TO ACHIEVE COMPLIANCE WITH THE PRIMARY DRINKING WATER STANDARD FOR HEXAVALENT CHROMIUM

WHEREAS:

1. The State Department of Public Health adopted regulations, effective July 1, 2014, which established a primary drinking water standard Maximum Contaminant Level (MCL) for hexavalent chromium.
2. Regulatory oversight of public water systems was transferred to the State Water Resources Control Board (State Water Board) from the State Department of Public Health effective July 1, 2014;
3. Public water systems classified as community water systems and non-transient non-community water systems must comply with the MCL;
4. Senate Bill (SB) 385, chaptered on or about September 4, 2015, added section 116431 to the California Health & Safety Code; pertaining to the State Water Board's authority to grant a public water system a period of time to achieve compliance with the primary drinking water standard for hexavalent chromium;
5. As an urgency bill, SB 385 took effect immediately;
6. California Health & Safety Code, section 116431 includes in relevant part:

“(g) The state board may implement, interpret, or make specific the provisions of this section by means of criteria, published on its Internet Web site. This action by the state board shall not be subject to the rulemaking requirements of the Administrative Procedure Act”; and
7. The State Water Board's Division of Drinking Water has prepared draft criteria it deems necessary for implementation of SB 385 (California Health & Safety Code, section 116431).

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts the [draft criteria](#) prepared by the State Water Board's Division of Drinking Water for implementation of SB 385 (California Health & Safety Code, section 116431) and approves said criteria for publication on its internet website.

D R A F T

2. The State Water Board hereby delegates, to the Executive Director or his delegee, all authority to approve modifications to said criteria.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on February 2, 2016.

Jeanine Townsend
Clerk to the Board