

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
JULY 18, 2017**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION TO ADOPT PROPOSED REGULATIONS FOR A 1,2,3-TRICHLOROPROPANE (1,2,3-TCP) MAXIMUM CONTAMINANT LEVEL (MCL) OF 5 PARTS PER TRILLION (PPT)

DISCUSSION

All public water systems are subject to regulations adopted by the State Water Resources Control Board (State Water Board) under the California Safe Drinking Water Act (Health & Safety Code, div. 104, pt. 12, ch. 4, §116270 et seq.). The State Water Board is responsible for adopting primary drinking water standards, which include Maximum Contaminant Levels (MCLs). Health & Safety Code section 116365 requires the State Water Board to set the MCL as close to the Office of Environmental Health Hazard Assessment (OEHHA)-published public health goal (PHG) as is technologically and economically feasible, placing primary emphasis on the protection of public health.

A federal standard for 1,2,3-TCP has not been developed. In 2009, OEHHA established a PHG for 1,2,3-Trichloropropane (1,2,3-TCP) of 0.7 parts per trillion (ppt), which is based on cancer risk. As part of the MCL development process, State Water Board staff conducted focused stakeholder meetings and public workshops in May and July 2016, respectively, with locations in Sacramento, Bakersfield, and Fresno. The purpose of the meetings and workshops was to describe the MCL development process and to solicit comments on the preliminary staff recommendation for an MCL for 1,2,3-TCP of 5 ppt and associated regulations.

On March 3, 2017, the State Water Board published a notice of proposed rulemaking pursuant to the requirements of the California Administrative Procedure Act (APA), initiating the mandatory 45-day public comment period, which ran from March 4 through April 21, 2017. Concurrently, the State Water Board released an Initial Study/Mitigated Negative Declaration (IS/MND) for a 45-day comment period to comply with the requirements of the California Environmental Quality Act (CEQA). On April 19, 2017, the State Water Board held an APA public hearing (during a Board Workshop). The purpose and intent of the public comment period and public hearing was to receive verbal and written comments from the public on the proposed regulations and IS/MND in accordance with the APA and the California Environmental Quality Act.

Following the conclusion of the public comment period on April 21, 2017, State Water Board staff has compiled, reviewed, and responded to every comment that was received during the comment period. Based on the staff evaluation, none of the comments resulted in modifications to the proposed regulations or the IS/MND, and no additional public comment period is required under the APA or CEQA. Minor modifications to the Initial Statement of Reasons (ISOR) and responses to all comments that were received during the public comment period will be contained in the Final Statement of Reasons (FSOR), and submitted to OAL as part of the regulations package.

All elements of the regulatory package are posted on the program webpage at: http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/123TCP_SBDDW-17-001.shtml.

Written comments received during the public comment period are available at: https://www.waterboards.ca.gov/public_notices/comments/trichloropropane/

The proposed regulations for 1,2,3-TCP include five primary provisions:

- An MCL for 1,2,3-TCP of 5 ppt;
- An amendment of the existing regulations to allow for limited “grandfathering” of results for any organic chemical sample collected within the last two years prior to the adoption of a regulation;
- A detection limit for the purposes of reporting (DLR) for 1,2,3-TCP of 5 ppt;
- Identification of granular activated carbon as the best available technology (BAT) for the treatment of 1,2,3-TCP; and
- Inclusion of information on the health effects of 1,2,3-TCP into public notification regulations.

POLICY ISSUE

Should the State Water Board adopt the proposed regulations for a 1,2,3-TCP MCL of 5 ppt?

DIVISION OF DRINKING WATER IMPACT

Approving the proposed regulations establishes a drinking water standard for 1,2,3-TCP which is protective of public health. A promulgated standard requires public water systems to evaluate their drinking water sources for the presence of 1,2,3-TCP and take corrective action in response to violations of the MCL.

REGIONAL BOARD IMPACT

The establishment of an MCL would provide an additional resource for Regional Boards in evaluating groundwater contamination problems and associated remedial actions.

FISCAL IMPACT

The Initial Statement of Reasons (ISOR) and the Standardized Regulatory Impact Assessment (SRIA) both evaluated the impact to public water systems. The SRIA was prepared because the state-wide impact of the proposed regulation was determined to exceed \$50 million in a 12-month period after full implementation. As part of the SRIA, the State Water Board evaluated the direct, indirect, and induced impacts, as well as the fiscal impacts to local governments, state governments, as well as local agencies.

The State Water Board’s Division of Drinking Water (DDW) oversees approximately 12,768 water sources impacted by the proposed regulation. The initial impact of the proposed regulation would have a relatively small effect on DDW staffing resources, which could be accommodated through redistribution of existing staff at the District office level. However, additional personnel may be needed for effective implementation and enforcement of the adopted MCL.

STAFF RECOMMENDATION

The State Water Board should adopt the proposed regulations for a 1,2,3-TCP MCL of 5 ppt.

State Water Board action on this item will assist the State Water Board in achieving the policy set forth in section 106.3 of the Water Code. Specifically, subdivision (a) of that section declares it is the established policy of the State that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”

State Water Board action on this item will also assist the State Water Board in reaching Goals 4 and 5 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; and improve transparency and accountability by ensuring that Water Board goals and actions are clear and accessible, by demonstrating and explaining results achieved with respect to the goals and resources available, by enhancing and improving accessibility of data and information, and by encouraging the creation of organizations or cooperative agreements that advance this goal, such as establishment of a statewide water data institute.

Also, State Water Board action on this item will assist the State Water Board in achieving Goals 2 through 7 of the California Environmental Protection Agency Strategy Vision (dated 2000), which provides for safe drinking water.

State Water Board action on this item will support State Water Board Resolution No. 2017-0012, which was adopted on March 7, 2017 to establish a comprehensive and robust response to climate change that will support California’s ongoing climate leadership. The State Water Board found that “given the magnitude of climate change impacts on California’s hydrology and water systems, our response to climate change must be comprehensive and integrated into all Water Boards’ actions.”

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2017-

ADOPTING THE PROPOSED REGULATIONS FOR A 1,2,3-TRICHLOROPROPANE (1,2,3-TCP) MAXIMUM CONTAMINANT LEVEL (MCL) OF 5 PARTS PER TRILLION

WHEREAS:

1. All public water systems are subject to regulations adopted by the State Water Resources Control Board (State Water Board) under the California Safe Drinking Water Act (Health & Safety Code, div. 104, pt. 12, ch. 4, §116270 et seq.);
2. The State Water Board is responsible for adopting primary drinking water standards, which include Maximum Contaminant Levels (MCLs);
3. Health & Safety Code section 116365 requires the State Water Board to set the MCL as close to the Office of Environmental Health Hazard Assessment (OEHHA)-published public health goal (PHG) as is technologically and economically feasible, placing primary emphasis on the protection of public health;
4. In 2009, OEHHA established a PHG for 1,2,3-Trichloropropane (1,2,3-TCP) of 0.7 parts per trillion (ppt) that is based on cancer risk;
5. On March 3, 2017, the State Water Board published a notice of proposed rulemaking pursuant to the requirements of the California Administrative Procedure Act (APA), initiating the mandatory 45-day public comment period, which ran from March 4 through April 21, 2017. Concurrently, the State Water Board released a Notice of Intent to adopt an Initial Study/Mitigated Negative Declaration (IS/MND) for public comment (SCH# 2017032015) pursuant to the California Environmental Quality Act (CEQA);
6. The State Water Board held a public hearing on April 19, 2017. The purpose and intent of the public comment period and public hearing was to receive verbal and written comments from the public on the proposed regulations in accordance with the APA;
7. Following the conclusion of the public comment period on April 21, 2017, State Water Board staff has compiled, reviewed, and responded to every comment received during the comment period;
8. Based on the staff evaluation, none of the public comments resulted in modifications to the proposed regulations or the IS/MND, and no additional public comment period was required under the APA or CEQA;
9. The IS/MND reflects the State Water Board's independent judgment and analysis. After considering the document and comments received during the public review process, the State Water Board hereby determines that the proposed project, with the mitigation measures described therein, will not have a significant effect on the environment. The documents or other material, which constitute the record, are located at the State Water Board;

10. Minor modifications to the Initial Statement of Reasons (ISOR) and responses to all comments that were received during the public comment period will be contained in the Final Statement of Reasons (FSOR), and submitted to the Office of Administrative Law (OAL) as part of the regulations package;
11. All elements of the regulatory package are posted on the program webpage at: http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/123TCP_SBDDW-17-001.shtml; and
12. Written comments received during the public comment period are available at: https://www.waterboards.ca.gov/public_notices/comments/trichloropropane/.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts the [IS/MND](#) for the proposed regulations, and will include as a condition in the amended permits to drinking water systems mitigation measures necessary to reduce or eliminate significant impacts on the environment. The State Water Board directs staff to file a Notice of Determination within five days from the issuance of this resolution;
2. The State Water Board adopts the [proposed regulations](#) for a 1,2,3-TCP MCL of 5 ppt, which will make modifications to Title 22, California Code of Regulations, Sections 64444, 64445, 64445.1, 64447.4, 64465, and 64481;
3. The State Water Board Executive Director shall sign Form 400 and State Water Board staff shall submit the adopted regulations to OAL for filing with the Secretary of State; and
4. If, prior to OAL filing the regulations with the Secretary of State, State Water Board staff, the State Water Board, or OAL staff determine that non-substantive corrections to the language of the regulations or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director may make such changes.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 18, 2017.

Jeanine Townsend
Clerk to the Board