



August 24, 2009



California Environmental Health Agency Proposes Hexavalent Chromium Guideline

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In a first step toward establishing a state drinking water standard for hexavalent chromium ("Chrome-6"), California's Office of Environmental Health Hazard Assessment ("OEHHA") has proposed a "Public Health Goal" ("PHG") of 60 parts per trillion (ppt) for Chrome-6. The written comment period on the proposed PHG and its supporting document has begun and will continue through October 19, 2009. That same day, OEHHA will host a public workshop starting at 10 a.m. in Oakland.

Since 1977, the presence of Chrome-6 in drinking water has been indirectly regulated via California's drinking water standard ("Maximum Contaminant Level" or "MCL") of 50 parts per billion (ppb) applying to total chromium (total chromium measures combined levels of Chrome-6 and trivalent chromium, a less toxic form of chromium). The federal MCL for total chromium is 100 ppb.

Chrome-6 occurs naturally in some drinking water. The metal is used in a number of industrial applications and has entered some water supplies as a result of past waste disposal practices.

The Public Health Goal

A PHG is not an enforceable standard, but rather a measurement of the concentration of a chemical contaminant in drinking water that does not pose a significant health risk. A PHG is not considered the highest

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level of a chemical that is safe to drink; in fact, drinking water containing contaminants exceeding PHGs is considered acceptable for public consumption in many cases.

OEHHA's draft PHG is based on a 2007 National Toxicology Program study in which laboratory rats and mice were given drinking water containing high levels of Chrome-6. In this study, some of the laboratory subjects exhibited the growth of tumors, which were attributed to the Chrome-6.

Use of the PHG in Formulating a Drinking Water Standard

Under state law, the California Department of Public Health ("CDPH") is required by statute to use PHGs to develop the state's drinking water standards. Controversy over Chrome-6, which was the contaminant of interest in the blockbuster movie *Erin Brockovich*, led to a state law requiring the development of a Chrome-6 MCL by January 1, 2004. Complications over the development of the PHG, however, set back the Legislature's intended timing.

California law requires CDPH to set drinking water standards as close to the corresponding PHG as is economically and technically feasible, placing primary emphasis on protection of public health. After the PHG is finalized, CDPH will commence a multistep process to establish an MCL for Chrome-6. CDPH will evaluate the ability of commercial laboratories to analyze and detect Chrome-6 in water. CDPH will further consider the costs of monitoring and treatment required to remove Chrome-6, and the proportion of the population likely to be exposed to concentrations above the MCL. Costs are required by law to be considered whenever MCLs are adopted.

The real-world detection limit for Chrome-6 in water may play a significant role in the development of the ultimate MCL. For instance, the primary testing method used by the U.S. Environmental Protection Agency to detect Chrome-6 in water (Method 218.6) generally cannot detect concentrations of less than 50 ppt, and this limit often rises when there is matrix interference.

Outlook

OEHHA's proposed PHG appears to make California the first state in the nation to advance a health-related goal, specific to Chrome-6. Other states are likely to follow California's example. A copy of the draft Chrome-6 PHG

and supporting document can be downloaded from OEHHA's [Web site](#). Please contact Craig Moyer in Manatt's Los Angeles office if you are interested in obtaining further information about the proposed PHG, including the submission of written comments.

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For additional information on this issue, contact:



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