



**State Water Resources Control Board**  
Division of Drinking Water

**TITLE 22, CALIFORNIA CODE OF REGULATIONS  
STATE WATER RESOURCES CONTROL BOARD**

**SUBJECT: 1,2,3-TRICHLOROPROPANE MAXIMUM CONTAMINANT LEVEL  
(SBDDW-17-001)**

**NOTICE OF PROPOSED RULEMAKING:**

Notice is hereby given that the State Water Resources Control Board (State Water Board) will conduct a public hearing during which time any interested person or such person's duly authorized representative may present statements, arguments, or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

**NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED 1,2,3-TRICHLOROPROPANE (1,2,3-TCP) MAXIMUM CONTAMINANT LEVEL (MCL) REGULATIONS (GOV. CODE, §11346.5(a)(1)):**

The State Water Board will conduct a public hearing at the time and place described below. At the hearing, any person may present comments orally or in writing relevant to the proposed action described in this notice.

DATE: April 19, 2017  
TIME: 9:00 a.m.  
PLACE: California Environmental Protection Agency  
State Water Resources Control Board  
Coastal Hearing Room  
1001 I Street  
Sacramento, CA 95814

Procedures for the hearing, including limits on speaker time and requirements for submitting power point presentations in advance of the hearing, will be posted on the State Water Board's 1,2,3-TCP website at least 30 days in advance of the public hearing. The website address is:

[http://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/123TCP.shtml](http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/123TCP.shtml)

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The public hearing will be preceded by a staff presentation summarizing the proposed regulations, followed by an opportunity for the public to ask questions. While a quorum of the State Water Board may be present, the Board will not take formal action at the public hearing. Final regulations are expected to be adopted by the Board later this year, after consideration of all written and oral comments.

**SPECIAL ACCOMMODATION REQUEST:**

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk to the Board at (916) 341-5600 as soon as possible, but no later than 10 business days before the scheduled State Water Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia
- Documentos disponibles en un formato alterno u otro idioma
- Una acomodación razonable relacionada con una incapacidad

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 341-5600 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

**WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS (GOV. CODE, §11346.4(a); §11346.5(a)(15)):**

Any interested person, or their representative, may submit written comments relevant to the proposed regulatory action to the Clerk to the State Water Board. The State Water Board requests but does not require that any written comments intended for consideration during the public hearing by State Water Board staff or Board Members be submitted to the State Water Board at least 10 days in advance of the public hearing. Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Clerk to the State Water Board by **5:00 p.m., April**

**21, 2017**, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost by dialing 711.

Written comments may be submitted as follows:

1. By email to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov). The State Water Board requests but does not require that email transmission of comments, particularly those with attachments, contain the regulation package identifier “SBDDW-17-001” in the subject line to facilitate timely identification and review of the comment; or
2. By fax transmission: (916) 341-5620. The State Water Board requests but does not require that faxed comments contain the subject line “SBDDW-17-001”; or
3. By mail to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, P.O. Box 997377, MS 7400, Sacramento, CA 95899-7377; or
4. Hand-delivered to: Clerk to the Board, Ms. Jeanine Townsend, State Water Resources Control Board, 1001 I Street, 24<sup>th</sup> Floor, Sacramento, CA 95814.

The State Water Board requests but does not require that written comments sent by mail or hand-delivered be submitted in triplicate.

The State Water Board requests but does not require that if reports or articles in excess of 25 pages are submitted in conjunction with the comments, that the commentator provide a summary of the report or article and describe the reason for which the report or article is being submitted or is relevant to the proposed regulation.

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the State Water Board to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

**AUTHORITY AND REFERENCE (GOV. CODE, §11345.5(a)(2); CCR TITLE 1, DIV 1, Ch. 1, §14):**

The State Water Board proposes to adopt this regulation under the authority granted by Health and Safety Code (HSC) Sections 116275, 116325, 116350, 116365, 116370,

and 116375. This proposal implements, interprets, and makes specific Sections 116275, 116365, 116370, 116385, 116450, 116460, 116470, and 116555 of the HSC.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW (GOV. CODE, §11346.5(a)(3)):**

All public water systems, as defined in HSC Section 116275, are subject to regulations adopted by the U.S. Environmental Protection Agency (U.S. EPA) under the Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300f et seq.), as well as by the State Water Board under the California Safe Drinking Water Act (HSC, div. 104, pt. 12, ch. 4, § 116270 et seq.). California has been granted primary enforcement responsibility (“primacy”) by U.S. EPA for public water systems (PWS) in California. California has no authority to enforce federal regulations, but only state regulations. Federal laws and regulations require that California, in order to receive and maintain primacy, promulgate regulations that are no less stringent than the federal regulations.

Pursuant to HSC Sections 116271, 116275, 116325, 116350, 116370, 116375, 116385, 116450, 116460, 116550, and 116555, the State Water Board has the responsibility and authority to adopt the subject regulations, including regulations for water quality monitoring frequencies.

California requires PWS to sample their drinking water sources and have the samples analyzed for organic chemicals to determine compliance with drinking water standards, including MCLs. Primary MCLs are based on health protection, technological feasibility, and costs. The PWS must notify the State Water Board and the public when drinking water supplied to the public is noncompliant with a primary MCL, and take appropriate action.

HSC Section 116365 imposes requirements on the State Water Board for adoption of primary drinking water standards for the protection of public health. One of those requirements is that the State Water Board set an adopted MCL as close to the contaminant’s public health goal (PHG) as is technologically and economically feasible at the time of adoption, while placing primary emphasis on protection of public health. PHGs are established by the California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA). In August 2009, OEHHA established the PHG for 1,2,3- TCP at 0.0007 micrograms per liter (µg/L), equivalent to 0.000007 milligrams per liter (mg/L) or 0.7 parts per trillion (0.7 ppt). The State Water Board is proposing 0.000005 mg/L as the MCL for 1,2,3-TCP. In addition, the proposed regulations will set the detection limit for purposes of reporting (DLR) at 0.000005 mg/L, identify granular activated carbon (GAC) as the best available technology for treatment (BAT), and identify language to be used by PWS for public notices and consumer confidence reports.

**Comparable Federal Statute and Regulations:** There are no federal regulations or statutes that address the specific subject addressed by the proposed regulations.

**POLICY STATEMENT OVERVIEW (GOV. CODE, §11346.5(a)(3)):**

*Problem Statement:* A drinking water standard specific for 1,2,3-TCP does not exist at the national or state level.

HSC Section 116365 establishes criteria for the State Water Board regarding the adoption of primary drinking water standards.

The State Water Board is responsible for the adoption of primary drinking water standards to protect the public from contaminants that may be present in drinking water provided by PWS, typically through the establishment of a MCL for a contaminant. The regulations are being amended to implement, interpret, or make specific the statutory provisions of HSC Section 116365.

*Objective (Goal):* Broad objectives of this proposed regulatory action are to:

- Adopt a drinking water MCL for 1,2,3-TCP of 0.000005 mg/L to protect public health consistent with statutory requirements.
- Adopt a DLR, BAT, public notification language, and consumer confidence report language to support the 1,2,3-TCP MCL.
- Adopt a method for PWS to substitute existing water quality data for initial monitoring requirements.

*Benefit:* Anticipated benefits from this proposed regulatory action are to:

- Provide increased public health protection by reducing the potential risk of adverse health effects associated with 1,2,3-TCP in drinking water.
- Provide consistency to minimum reported 1,2,3-TCP analytical values.
- Provide PWS and State Water Board staff with 1,2,3-TCP treatment guidance.
- Establish consistent quality of information between PWS and customers.
- Reduce potential monitoring costs to PWS by allowing PWS to substitute existing water quality data for initial monitoring requirements. Associated proposed regulations will provide State Water Board oversight of the substitution process to better protect drinking water quality and ensure conformance with existing federal regulations.

## **SUMMARY OF PROPOSAL:**

The primary purpose of the proposed regulations is to adopt a primary drinking water standard of 0.000005 mg/L for 1,2,3-TCP in drinking water, consistent with and meeting the requirements of HSC Section 116365, and supporting regulations, including setting a DLR and identifying the BAT. The proposed regulations will also establish a method for PWS to substitute existing water quality data to meet initial monitoring requirements under certain conditions.

The State Water Board also proposes a number of non-substantive changes which will correct spacing, use of upper/lower case, references to paragraphs, and delete redundant text and unnecessary punctuation and text.

Pursuant to federal primacy requirements and HSC sections 116271, 116275, 116325, 116350, 116370, 116375, 116385, 116450, 116460, 116550, and 116555, the State Water Board proposes the below noted changes to Title 22:

- Amend Section 64444 (Maximum Contaminant Levels – Organic Chemicals) as follows:
  - First paragraph and Table 64444-A to make nonsubstantive changes; and
  - Table 64444-A to adopt a 1,2,3-TCP MCL of 0.000005 mg/L.
- Amend Section 64445 (Initial Sampling – Organic Chemicals) as follows:
  - Section title to make nonsubstantive changes;
  - (g) to provide clarity; and
  - (i) to allow limited “grandfathering” of monitoring data collected prior to the effective date of any regulation establishing an MCL for an organic chemical.
- Amend Section 64445.1 (Monitoring and Compliance – Organic Chemicals) as follows:
  - (a) and Table 64445.1-A to make nonsubstantive changes;
  - Table 64445.1-A to adopt a 1,2,3-TCP detection limit for purposes of reporting; and
  - (b); (b)(1), (2), and (3); (c); (c)(1), (4), (5), and (5)(A) and (B); (6); and (7)(A) to make nonsubstantive changes.

- Amend Section 64447.4 (Best Available Technologies (BAT) – Organic Chemicals) as follows:
  - First paragraph to make a nonsubstantive change;
  - Table 64447.4-A to make a nonsubstantive change; and
  - Table 64447.4-A to adopt a finding of BAT for 1,2,3-TCP.
- Amend Section 64465 (Public Notice Content and Format) as follows:
  - Appendices 64465-A, -C, -D, and -E to make nonsubstantive changes;
  - Appendix 64465-F to make nonsubstantive changes and adopt public notification (health effects) language for 1,2,3-TCP; and
  - Appendix 64465-G to make a nonsubstantive change.
- Amend Section 64481 (Content of the Consumer Confidence Report) as follows:
  - Appendix 64481-A to adopt Consumer Confidence Report (major origins in drinking water) language for 1,2,3-TCP.

The net effects of the proposed regulations would be as follows:

- Community water systems (CWS) and nontransient-noncommunity water systems (NTNCWS) would be required to monitor for 1,2,3-TCP;
- PWS would be required to comply with a 1,2,3-TCP MCL and report results of any sampling for 1,2,3-TCP;
- CWS and NTNCWS would be allowed to use groundwater monitoring data meeting specific criteria and collected prior to the establishment of a new organic chemical MCL to satisfy some of the initial monitoring requirements for that MCL;
- BAT would be specified for 1,2,3-TCP removal;
- A DLR would be specified for 1,2,3-TCP;
- PWS that violate the 1,2,3-TCP MCL would be required to use specific public notification (health effects) language; and
- PWS that detect 1,2,3-TCP would be required to use specific Consumer Confidence Report (major origins in drinking water) language.

None of the proposed amendments would affect California's primacy status because the net effect of these amendments is that the state's regulation would be more stringent than the federal regulation and consistent with HSC Section 116270(f). The U.S. EPA has not yet proposed or adopted an MCL for 1,2,3-TCP.

**EVALUATION AS TO WHETHER THE PROPOSED REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS (GOV CODE, §11346.5(a)(3)(D)):**

The State Water Board evaluated the proposal as to whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of the State Water Board's existing general regulations and any regulations specific to 1,2,3-TCP for drinking water. An internet search of other state agency regulations was also performed. The State Water Board determined that no other state regulation addressed the same subject matter and that this proposal was not inconsistent or incompatible with other state regulations. Therefore, the State Water Board has determined that this proposal, if adopted, would not be inconsistent or incompatible with existing state regulations.

**DOCUMENTS INCORPORATED BY REFERENCE (CCR TITLE 1, DIV 1, Ch. 1, §20(c)(3)):**

State Water Resources Control Board, 2016. Capital and O&M cost curves.

State Water Resources Control Board, 2017. California Environmental Quality Act (CEQA) Analysis: Initial Study (IS) and Proposed Mitigated Negative Declaration.

State Water Resources Control Board, 2017. HSC Section 57004, Scientific Peer Review documents including submittals for review, Peer Review Comments, and State Water Board Responses to Comments.

**FORMS INCORPORATED BY REFERENCE (CCR TITLE 1, DIV 1, Ch. 1, §20(c)(3)):**  
N/A

**MANDATED BY FEDERAL LAW OR REGULATIONS (GOV CODE, §11346.2(c)):**  
Adoption of this regulation is not mandated by federal law or regulations.

**OTHER STATUTORY REQUIREMENTS (GOV CODE, §11346.5(a)(4)):**

HSC Section 57004 requires the Cal/EPA organizations to submit for external scientific peer review all proposed rules that have a scientific basis or components. The final peer review comments and the State Water Board's response to those comments can be found on the State Water Board's website at:

[http://www.swrcb.ca.gov/water\\_issues/programs/peer\\_review/](http://www.swrcb.ca.gov/water_issues/programs/peer_review/)

The California Environmental Quality Act (CEQA) requires that state agencies consider the potentially significant environmental impacts of their discretionary actions, which include the development of regulations. The State Water Board has prepared an initial study and mitigated negative declaration, which considers the impacts of the reasonably foreseeable methods of compliance and the alternative methods of compliance pursuant to Public Resources Code section 21159, and concludes that with the proposed mitigation incorporated into the project, the proposed regulations would not have a significant adverse impact on the environment. The Draft CEQA document has been posted on the State Water Board's website for a 30-day review at

[http://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/123TCP.shtml](http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/123TCP.shtml)

**LOCAL MANDATE (GOV CODE, §11346.5(a)(5)):**

Pursuant to Government Code Sections 11346.5(a)(5), the State Water Board has determined the proposed regulatory action would not impose a mandate on a local agency or school district that requires reimbursement pursuant to Section 17500 et seq. as the State Water Board is implementing HSC Section 116365.

Local agencies and school districts currently incur costs in their operation of public water systems. The costs imposed by these regulations are not the result of a "new program or higher level of service" within the meaning of Article XIII B, Section 6 of the California Constitution because they apply generally to all individuals and entities that operate public water systems in California, and do not impose unique requirements on local governments. (*County of Los Angeles v. State of California, et al.*, 43 Cal. App. 3d, 46 (1987)). In addition, the publicly-owned systems can pass on the costs in increased service charges, fees or assessments. Therefore, no state reimbursement of these costs is required. Local regulatory agencies also may incur additional costs for their responsibility to enforce state regulations related to small PWS (fewer than 200 service connections) that they regulate. However, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small PWS (HSC, § 101325). Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required (Gov. Code, § 17556(d)).

**FISCAL IMPACT ESTIMATE (GOV CODE, §11346.5(a)(6)):**

- A. Fiscal Impact on Local Government: \$28.67 million annually, which is not reimbursable by the State pursuant to Article XIII B, Section 6 of the California Constitution.
- B. Fiscal impact on State Government: \$0.10 million annually, which is anticipated to be absorbable by State agencies within their existing budgets. The State Water Board estimates that there will be no change to the Drinking Water Program's Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under sections 116565, 116577, 116585, and 116590, California Health and Safety Code.
- C. Fiscal Impact on Federal Funding of State Programs: None.
- D. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None.
- E. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

**SMALL BUSINESS (1 CCR 4(a) and (b)):**

Effect on Small Businesses: The proposed regulation directly impacts public drinking water systems. Public water systems are utilities, not businesses or individuals and, pursuant to Government Code Chapter 3.5, Article 2, Section 11342.610(b)(8), are specifically excluded from the definition of "small businesses". However, the State Water Board recognizes that a small number of the identified public water systems likely provide water solely to businesses and that public water systems often provide water to businesses. The State Water Board also recognizes that costs for the treatment and monitoring would likely be passed on to a water system's customers, which may include individuals and businesses. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation.

Similarly, no reporting is required of businesses, but reporting of monitoring results would be required of the public water systems, and such reporting is necessary for health, safety, or welfare of the people of the state to ensure compliance with the drinking water MCL. Those costs for reporting were considered as part of the monitoring costs.

The State Water Board does not track or have a way of estimating the total number of businesses contained within every water system. The types of businesses

expected to be indirectly impacted consist of every type of business that requires potable drinking water for their customers, employees, or processes/operations.

**COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS (GOV CODE, §11346.5(a)(9)):**

The State Water Board is not aware of any direct cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Indirect cost impacts are estimated within Standard Form 399 and the Standardized Regulatory Impact Assessment. The estimated annual cost to privately owned PWS is \$5.99 million.

**HOUSING COSTS (GOV CODE, §11346.5(a)(12)):**

The State Water Board has determined that the regulations will have no impact on housing costs.

**MAJOR REGULATION: STATEMENT OF RESULTS OF THE STANDARDIZED REGULATORY IMPACT ASSESSMENT (SRIA) (GOV CODE, §11346.3(c)):**

During development of the 1,2,3-TCP regulation package the State Water Board determined that the economic impact of the proposed regulations would likely exceed \$50 million in a 12-month period and that the regulations would therefore be considered a Major Regulations as defined by California Code of Regulations, Title 1, Division 3, Chapter 1, §2000(g). The State Water Board prepared a SRIA as required by Government Code 11346.3(c). The State Water Board has determined that the proposed regulations would not significantly affect the following:

- The creation or elimination of jobs within the State of California. The requirements summarized above should not have any affect in that there would not be any significant change in PWS or regulatory personnel needed for compliance with the new requirements.
- The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the drinking water industry is such that the adoption of this proposed regulation would not result in the creation or elimination of businesses. The impact of the proposed regulations would be insignificant.

- The competitive advantages or disadvantages for businesses currently doing business within the state. The proposed regulatory action would have no significant direct adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.
- The increase or decrease of investment in the state. The State Water Board expects that some PWS with 1,2,3-TCP contamination in some or all of their active sources shall apply for and receive loans and grants from various California funding programs. The State Water Board anticipates that the funding will have an impact on the ability of California to fund other projects, either due to less funding being available for those projects or from staff workload issues. The State Water Board does not have sufficient information to project the extent of the impacts from this but does not anticipate a significant impact to California.
- The incentives for innovation in products, materials, or processes. There may be incentives for companies to innovate new treatment technologies for drinking water in response to the regulation. This would include creating alternatives that can lower the annual cost of treatment.
- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment. The State Water Board has made a determination that the proposed regulations would improve the protection of the public's health and welfare through the control of 1,2,3-TCP and its associated risk in the public's drinking water supply, with no direct adverse impacts to worker safety or California's environment.

The SRIA was submitted to the Department of Finance (DOF) on October 6, 2016. DOF provided comments to the State Water Board on October 24, 2016. DOF generally concurred with the State Water Board's methodology for estimating annual impacts and stated that the analysis generally met requirements of the SRIA, with two comments. The two comments, and the State Water Board's response to those comments, are as follows:

**Comment 1: The impacts to businesses that are required to use potable water in their operations should be included. These businesses would also face higher costs of purchasing treated water or installing their own filtration systems. These impacts should be discussed to the extent possible.**

The proposed regulation directly impacts public drinking water systems. Public water systems are utilities, not businesses or individuals and, pursuant to Government Code

Chapter 3.5, Article 2, Section 11342.610(b)(8), are specifically excluded from the definition of small businesses. The State Water Board recognizes that the direct impacts from the regulation may be passed on by the public water systems as indirect costs to businesses and individuals; these businesses and individuals may be customers of a public water system, such as a homeowner in a city, a business in a commercial park, or another public water system purchasing water for its own customers. The indirect impacts also extend to businesses or individuals whose activities include the ownership, management, and/or operations of a directly impacted public water system, such as a mobile home park or investor-owned utility. The types of businesses expected to be indirectly impacted consist of every type of business that requires potable drinking water for either their customers, employees, or processes/operations.

Of the 4,296 public water systems estimated to be impacted as a result of this regulation (see Cost Estimating Methodology), the State Water Board estimates that 2,711 of those systems are privately owned and 1,410 are locally owned (e.g., municipal water systems). The State Water Board does not track or have a way of estimating the total number of businesses contained within water systems. The State Water Board does not collect sufficient water usage data from each public water system to develop an appropriate method of estimating what costs would be passed on to businesses and how those businesses' competitiveness would be affected. Additionally, the State Water Board does not track information for each individual business that may be impacted (e.g., flow data, number of connections, volume of drinking water used for processing or operations) and can therefore not quantify the economic impacts.

The State Water Board recognizes that costs for the treatment and monitoring would likely be passed on to a water system's customers, which may include individuals and businesses. It is anticipated that those increases will be a small percentage of a business' total costs, and would not create a significant adverse economic impact generally. The State Water Board does not have sufficient information about water usage of businesses to develop an accurate assessment of impacts.

Depending on their water needs, some businesses may incur higher water costs as a result of the treatment, while other businesses may be able to separate their drinking water from their business uses and use water not meant for public consumption (e.g. cooling, construction), potentially reducing rate increases. Similarly, businesses and individuals that were buying bottled water because of concerns about 1,2,3-TCP in the water would no longer need to buy bottled water. The actual cost passed on from the public water systems to the businesses and individuals they serve will also depend on the number of service connections within the water system (those systems with a higher number of service connections would experience lower per connection cost increases due to a larger number of connections sharing the cost of infrastructure upgrades), the volume of water requiring treatment, and the ability to qualify for grants or low-interest

loans. Therefore, even though the regulation does not directly affect businesses or individuals, those entities may be indirectly impacted by the regulation; nonetheless, any economic impact to businesses statewide is not anticipated to be significant.

**Comment 2: If there are federal or state funds available to help water systems invest, this would lower costs to local ratepayers, but may entail fiscal costs. Again, these impacts should be discussed to the extent possible.**

The State Water Board expects that some public water systems with 1,2,3-TCP contamination in some or all of their active sources will apply for and receive loans and grants from various California funding programs. The State Water Board anticipates that funding those public water systems that have 1,2,3-TCP contamination may have an impact on the ability of California to fund other projects which may also be eligible to receiving funding due to funding being finite and thus less available for those projects. The State Water Board does not have sufficient information to project the extent of the impacts from this as funding is competitive and it is uncertain how many water systems may receive assistance. However, water systems that do receive funding assistance will not increase the fiscal costs to the State for administering these funding programs since those costs would incur for those program regardless of this regulatory action.

The State Water Board estimates that there will be no change to the Division of Drinking Water's Safe Drinking Water Account fees and caps. The fees, caps, and annual adjustments are specified in statute under sections 116565, 116577, 116585, and 116590, California Health and Safety Code.

No direct fiscal impacts are anticipated to federally funded State agencies or programs. Indirect impacts may occur as a result of an increase or redirection in the use of federally provided funds used by State agencies for loan and grant programs to public water systems, but insufficient information exists for these indirect impacts to be calculated.

**SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE ((GOV CODE, §11346.3(a), §11346.5(a)(7), §11346.5(a)(8))**

The State Water Board has determined that the proposed regulatory action would have no significant direct adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states. The proposed regulations apply only to PWS, as defined pursuant to HSC Section 116275, which are not businesses or individuals. PWS are water companies (utilities) providing drinking water to the public and, pursuant to Government Code section 11342.610, are exempt from the definition of a small business.

The State Water Board recognizes that a small number of the identified public water systems likely provide water solely to businesses, and that public water systems identified as community water systems often provide water to businesses. Privately-owned public water systems may also be businesses, such as a mobile home park or investor owned utilities, which will incur indirect impacts and may include businesses within their service areas.

The State Water Board assumes that a public water system which is required to install treatment for 1,2,3-TCP will likely pass the costs of treatment onto that system's customers, which may include businesses. Some businesses may incur higher water costs as a result of the treatment, while other businesses may be able to separate their drinking water from their business uses and use water not meant for public consumption (e.g., cooling, construction). The State Water Board does not collect sufficient water usage data from each public water system to develop an appropriate method of estimating what costs would be passed on to businesses and how those businesses' competitiveness would be affected.

#### **REPORTING REQUIREMENTS (GOV CODE, §11346.5(a)(11); §11346.3(d)):**

Government Code Section 11346.36(d) requires that any administrative regulation adopted on or after January 1, 1993 that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for health, safety, or welfare of the people of the state that the regulation apply to businesses. The State Water Board has determined that the proposed regulations would not require reports from businesses to the extent that PWS are not considered businesses pursuant to Government Code Section 11342.610(b)(8), and to the extent PWS may be considered businesses, reporting of monitoring of drinking water sources for 1,2,3-TCP is necessary for health, safety, or welfare of the people of the state.

#### **CONSIDERATION OF ALTERNATIVES (GOV CODE, §11346.5(a)(13)):**

The State Water Resources Control Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to regulated water systems and affected private persons than the proposed action, or would be more cost-effective to regulated water systems and affected private persons and equally effective in implementing the statutory policies or other provisions of law. The State Water Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period. Although adopting a less stringent MCL would result in aggregate savings statewide because fewer systems would be required to install treatment, doing

so would be inconsistent with HSC section 116365, which requires that the MCL be set as close to the PHG as feasible, and that to the extent technologically and economically feasible avoids any significant risk to public health. Additionally, those systems that would still require treatment in order to meet the MCL would not have any considerable cost savings as the cost for treatment is fairly consistent regardless of whether the MCL is set at 0.000005 or 0.000015 mg/L.

**CONTACT PERSONS (GOV CODE, §11346.5(a)(14)):**

Inquiries regarding the action described in this notice may be directed to Kim Niemeyer of the Office of Chief Counsel, at (916) 341-5547 or Zachary Rounds of the Division of Drinking Water, Regulatory Development Unit, at (707) 576-2733.

**Please identify the action by using the State Water Board regulation package identifier, “SBDDW-17-001: 1,2,3-Trichloropropane MCL” in any inquiries or written comments.**

**AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE (GOV CODE, §11346.5(a)(16))**

The State Water Board has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, this notice of proposed rulemaking, the text of the proposed regulations, and all other required forms, statements, and reports. The Regulatory Development Unit, Division of Drinking Water, State Water Resources Control Board, 1001 I Street, 17<sup>th</sup> Floor, Sacramento, CA 95814, will be the location for inspection and copying of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file) throughout the rulemaking process.

In order to request that a copy of this public notice, the regulation text, and the initial statement of reasons or alternative formats for these documents be mailed or emailed to you, please call (916) 341-5600 (or the California Relay Service at 711), send an email to [clerk@waterboards.ca.gov](mailto:clerk@waterboards.ca.gov), or write to the Regulatory Development Unit at the Division of Drinking Water, State Water Resources Control Board, 1001 I Street, 17<sup>th</sup> Floor, Sacramento, CA 95814. Upon specific request, these documents will be made available in Braille, large print, audiocassette, or computer disk.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT (GOV CODE, §11346.5(a)(16)):**

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the State Water Board's Division of Drinking Water Regulatory Development Unit at least 15 days prior to the date on which the State Water Board adopts, amends, or repeals the resulting regulation. The State

Water Board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please send requests for copies of any modified regulations to the attention of the Regulatory Development Unit, Division of Drinking Water at the address indicated above.

**AVAILABILITY OF FINAL STATEMENT OF REASONS (GOV CODE, §11346.5(a)(19)):**

The State Water Board will prepare a final statement of reasons pursuant to Government Code Section 11346.9 after final adoption of the regulations and when ready will make the final statement of reasons available upon request from the State Water Board's Division of Drinking Water Regulatory Development Unit.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET (GOV CODE, §11346.4(a)(6); §11346.5(a)(20)):**

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) are available via the Internet and may be accessed at [www.waterboards.ca.gov](http://www.waterboards.ca.gov) by clicking on these links, in the following order: Drinking Water > Regulations and Statutes > Upcoming Regulations for Drinking Water and Recycled Water >