



July 1, 2020

Ms. Esther Barajas-Ochoa
Office of Environmental Health Hazard Assessment
P.O. Box 4010, MS-12-B
1001 I Street
Sacramento, California 95814

Subject: Southern California Water Coalition Comments on OEHHA's Proposed Proposition 65 No Significant Risk Levels for Three Haloacetic Acids

Dear Ms. Barajas-Ochoa:

The Southern California Water Coalition (SCWC) appreciates this opportunity to comment on the Office of Environmental Health Hazard Assessment's (OEHHA) proposed No Significant Risk Levels (NSRL) for trichloroacetic acid (TCA; 9.9 µg/day), dichloroacetic acid (DCA; 17 µg/day) and dibromoacetic acid (DBA; 2.8 µg/day).

The Southern California Water Coalition is a broad-based nonprofit, nonpartisan public education partnership dedicated to informing Southern Californians about our water needs and our state's water resources. Spanning Los Angeles, Orange, San Diego, San Bernardino, Riverside, Ventura, Kern and Imperial counties, SCWC's approximately 200 member organizations include leaders from business, counties, cities, agricultural groups, labor unions, environmental organizations, water agencies, as well as the general public.

The diverse interests of our membership set SCWC apart, giving us the unique ability to take an all-inclusive approach to a variety of important water policy challenges as we facilitate productive dialogue and build consensus to solve California's most critical water issues.

NSRLs Should Not be Based on Draft Risk Assessments Still Under Development in Other Programs

OEHHA's first public review draft Technical Support Document (TSD) for Haloacetic Acids (HAA) in Drinking Water (January 2020) includes the three HAAs that are the subject of OEHHA's proposed Proposition 65 NSRLs. The HAA TSD is currently undergoing external scientific peer review pursuant to the process prescribed for draft Public Health Goals (PHG) at Health and Safety Code §57004. OEHHA has also received





public comments on the first draft TSD, including the following comments from the SCWC indicating that the risk assessments for these HAAs improperly interpret and apply the available science:

- For TCA, there is consistent evidence of liver tumors in male mice but evidence for tumors is less consistent in female mice, and tumors have not been reported in rat studies. In addition, the mouse tumors appear to result from a non-genotoxic mechanism that can be defined as a threshold mechanism (*i.e.*, no cancer risk below a threshold exposure level). Separate evaluations by the National Toxicology Program¹ and U.S. EPA² indicate that the PHG for TCA should not be based on carcinogenic effects.
- DCA appears to be weakly genotoxic and only at higher doses, which may indicate a threshold cancer mechanism. It should be noted that DCA has been used therapeutically in humans at doses as high as 25 mg/kg-day. Moreover, the mice in the key study selected by OEHHA for the DCA risk assessment exhibited a high rate of spontaneous liver tumors, which complicates interpretation of the study results. This study does not appear to be an appropriate foundation for a quantitative health risk assessment.
- Although there is more evidence of the genotoxicity of DBA (liver tumors in male mice, rare spontaneous tumors in rats), the mechanism for tumor induction has not been clearly identified and may involve precursor events that are non-genotoxic.

Comments from the public and the external scientific peer reviewers may result in changes to the draft PHG risk assessments that could impact future decisions by the State Water Resources Control Board (SWRCB) regarding enforceable maximum contaminant levels (MCL) for these drinking water disinfection by products (DBP). For these reasons, the MCL process does not begin until the PHG process is complete. It is similarly premature and inappropriate for OEHHA to use draft PHG risk assessments to support Proposition 65 NSRLs or any other regulatory decisions until those draft risk assessments are completed.

¹ National Toxicology Program. Report on Carcinogens, Monograph of Haloacetic Acids Found as Water Disinfection By-Products. March 2018.

² U.S. Environmental Protection Agency. Toxicological Review of Trichloroacetic Acid (CAS No. 76-0309) In Support of Summary Information on the Integrated Risk Information System. EPA/635/R-09/003F. September 2011.



No Apparent Justification for Proposed NSRLs

It is odd that OEHHA is proposing NSRLs for these chemicals now. The most recent Proposition 65 listing was for TCA in September of 2013 – almost seven years ago. DCA was listed in 1996 - twenty-five years ago - yet OEHHA saw no need to develop NSRLs for any of these chemicals until now. TCA and DCA appear to have narrow consumer product applications (e.g., cosmetic treatments for tattoo removal and treatment of warts), whereas DBA appears to be limited only to narrow laboratory applications. However, there is nothing in OEHHA’s Initial Statement of Reasons documents³ indicating an increase in consumer product uses or other applications that would justify development of NSRLs at this point in time.

Impact on PHG Development

The most likely route of human exposure to these substances is through ingestion of disinfected drinking water. As we stated in our written comments on OEHHA’s first draft TSD for the HAA PHGs, these draft risk assessments present a potential public health threat because they prioritize reduction of exposure to DBPs over drinking water disinfection, even though OEHHA acknowledges that the actual health risks of exposure to microbiological contaminants are much greater than the theoretical health risks associated with exposure to DBPs. While we recognize Proposition 65 does not apply to public water systems, we are concerned that using the draft PHG risk assessments as the basis for enforceable NSRLs would undermine the PHG development process because the proposed NSRLs would create an institutional bias against meaningful changes to the draft PHG risk assessments.

Overriding Considerations to Protect Public Health

Ironically, the Proposition 65 regulations recognize that there are exceptional cases where public health may be best served by establishing alternative Safe Harbor Levels to preserve critical public health protections. Section 25703(b) specifically allows for such exceptions to the default NSRL “where sound considerations of public health support an alternative level.” Subsection 25703(b)(2) identifies as an example instances where “chlorine disinfection in compliance with all applicable state and federal safety standards is necessary to comply with sanitation requirements.” This same concept should be applied to OEHHA’s PHG risk

³ https://oehha.ca.gov/media/downloads/cnr/dibromoaceticacidisor052220_1.pdf;
<https://oehha.ca.gov/media/downloads/cnr/dichloroaceticacidisor052220.pdf>;
<https://oehha.ca.gov/media/downloads/cnr/trichloroaceticacidisor052220.pdf>.



assessments for DBPs in the interest of preserving the public health protections provided by chlorine-based drinking water disinfection.

For these reasons, we recommend that OEHHA suspend development of NSRLs for TCA, DCA, and DBA until it fully considers the external peer review and public comments on the corresponding PHG risk assessments, and those assessments are completed. If you have any questions, please feel free to contact me at Cwilson@socalwater.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Charley Wilson".

Charley Wilson

cc: Dr. Lauren Zeise, Director – OEHHA
Allan Hirsch, Chief Deputy Director – OEHHA
Darrin Polhemus, Chief Deputy Director, Division of Drinking Water - SWRCB
Julie Henderson, Deputy Secretary, Cal-EPA
Kristin Peer, Deputy Secretary, Cal-EPA
Christine Hironaka – Governor's Office