

## FINAL STATEMENT OF REASONS

### TITLE 22, CALIFORNIA CODE OF REGULATIONS

#### SECTION 12705(b). SPECIFIC REGULATORY LEVELS POSING NO SIGNIFICANT RISK

This is the Final Statement of Reasons for specific regulatory levels for benzene and bromoform, two chemicals listed as known to the State to cause cancer under the Safe Drinking Water and Toxic Enforcement Act of 1986 (hereinafter “the Act” or Proposition 65). On June 13, 2003, the Office of Environmental Health Hazard Assessment (OEHHA) issued a Notice of Proposed Rulemaking to adopt regulatory levels in Title 22, California Code of Regulations, Section 12705 (22 CCR §12705) for ten chemicals listed pursuant to the Act as known to the State to cause cancer (22 CCR §12000) (benz[a]anthracene, benzene, benzo[b]fluoranthene, benzo[j]fluoranthene, bromoform, chrysene, 7H-dibenzo[c,g]carbazole, dibenzo[a,h]pyrene, dibenzo[a,i]pyrene, and 5-methylchrysene). The Notice also announced a proposed regulatory level for adoption in Title 22, California Code of Regulations, Section 12805 (22 CCR §12805) for one chemical listed as known to cause reproductive toxicity (22 CCR §12000) (arsenic [inorganic oxides]). The Initial Statement of Reasons set forth the grounds for the proposed regulations.

Pursuant to the Notice of Proposed Rulemaking, a public comment period was held between June 13 and July 31, 2003, and a public hearing was held on July 31, 2003.

The regulation hereby adopts regulatory levels for two chemicals included in the Notice of Proposed Rulemaking, benzene and bromoform. Regulations on the remaining chemicals listed in the Notice will be adopted at a later time.

#### UPDATE OF INITIAL STATEMENT OF REASONS

All data, studies, reports, or other documents relied on for this regulation were identified in the Initial Statement of Reasons of June 13, 2003.

#### SUMMARY AND RESPONSE TO COMMENTS RECEIVED

No comments were received on benzene or bromoform.

#### ALTERNATIVES DETERMINATION

In accordance with Government Code Section 11346.5(a)(7), OEHHA has, throughout the adoption process of this regulation, considered available alternatives to determine whether any alternative would be more effective in carrying out the purpose for which the regulations were proposed, or would be as effective and less burdensome to affected private persons than the proposed action. OEHHA has determined that no alternative considered would be more effective, or as effective and less burdensome to affected persons, than the proposed regulation.

For chemicals listed under the Act as known to cause cancer, the Act exempts discharges to sources of drinking water and exposures of people without provision of a warning if the exposure produces no significant risk of cancer, or the discharged amount is at or below this exposure level (Id.). The Act does not specify numerical levels of exposure that represent the no significant risk level (NSRL).

The purpose of this regulation is to provide “safe harbor” levels for certain chemical exposures. This regulation establishes NSRLs for two chemicals that cause cancer. The discharge prohibition does not apply to exposures at or below these levels and warnings regarding cancer concerns are not required for exposures at or below these levels. Thus, these levels will allow persons subject to the Act to determine whether a given discharge to sources of drinking water or exposure to people involving these chemicals is subject to the warning requirement and discharge prohibition provisions of the Act (Health and Safety Code Sections 25249.6 and 25249.5 respectively).

Although Title 22, California Code of Regulations, Section 12703 describes principles and assumptions for conducting risk assessments to derive safe harbor levels, many businesses subject to the Act do not have the resources to perform these assessments. Yet each business with ten or more employees needs the ability to determine whether its activities or products are subject to the discharge prohibition or warning requirements of the Act. Given the wide use or occurrence of the chemicals covered by this regulation, the absence of this regulation would leave numerous businesses without an efficient way of determining if they are in compliance with the Act without the expenditure of significant resources on their part.

#### LOCAL MANDATE DETERMINATION

OEHHA has determined the regulatory action will not pose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action. It should be noted that Proposition 65 provides an express exemption from the warning requirement and discharge prohibition for all state and local agencies. Thus, the proposed regulations do not impose any mandate on local agencies or school districts.