



● **Board of Directors**
Communications and Legislation Committee

11/5/2019 Board Meeting

8-2

Subject

Authorize the General Manager to co-sponsor legislation to create a statewide program to identify and evaluate drinking water quality constituents of emerging concern; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

Issues surrounding constituents of emerging concern (CECs) continue to receive widespread public attention. California does not have a dedicated program to assess CECs in drinking water sources or a comprehensive plan to deal with the growing public and political concerns. Staff recommends co-sponsoring legislation to establish and maintain a statewide CEC program to systematically identify and evaluate CECs in drinking water sources, including recycled water and treated drinking water, and examine their potential effects on public health.

The proposed CEC program would help streamline and inform existing regulatory processes, improving efficiencies, and filling data gaps that can often delay current efforts. This would ensure a unified, consistent and science-based approach for assessing the public health and drinking water consequences of a broad spectrum of CECs, while identifying which CECs warrant further action. The program would facilitate research and data gathering which, overall, would allow regulatory agencies, water industry professionals, and other key policy makers to make more timely and better informed decisions on drinking water quality issues.

Details

CECs are a diverse group of synthetic and naturally occurring chemicals and some microorganisms in water. Given significant advancements in analytical methods that now allow detection at increasingly lower levels (e.g., parts per trillion), CECs have been found in natural waterbodies and drinking water, and more are expected to be detected in the future. Without a complete picture of occurrence and health effects, the water industry will continue to struggle to fully understand and effectively communicate the level of risk posed by CECs in drinking water supplies. Also, while scientific detection methods have evolved, the regulatory process to address new contaminants is often time-consuming which delays regulatory determinations.

The State Water Resources Control Board (State Water Board) currently regulates CECs as follows: (1) by adoption of federal standards, (2) after the Office of Environmental Health Hazard Assessment (OEHHA) sets a public health goal, or (3) by legislative mandate. All of these processes have their own unique challenges and inefficiencies associated with making regulatory determinations. The federal process relies upon the Contaminant Candidate List (CCL) and the Unregulated Contaminant Monitoring Rule (UCMR) to identify and collect data on CECs. However, the CCL/UCMR process can take several years before a final regulatory decision is made and may not focus on issues specific to California. Similarly, the regulatory development process in California can be lengthy. For example, it took more than 12 years for OEHHA and the State Water Board to develop a maximum contaminant level for hexavalent chromium, only to then have it invalidated after a court ruled that economic feasibility was not properly considered. A dedicated program to identify CECs that occur in California, review the state of knowledge, identify and fill in gaps, and provide recommendations on CECs for further regulatory action in drinking water is needed to help streamline the regulatory process and enable the water industry to better respond to this important water quality issue that has growing public and political concerns.

Proposed Legislation

Staff proposes legislation to establish and maintain a statewide CEC program that would work with public water agencies, the State Water Board's Division of Drinking Water and OEHHA, and nonprofit organizations. The program could be housed at a state agency or a new public entity created to oversee a set of focused research activities defined by these stakeholders. This program would help identify, evaluate, and prioritize further actions for CECs in drinking water sources, including recycled water and treated drinking water, and examine their potential effects on public health. The intent would be to bridge informational gaps and inefficiencies in current processes by establishing a dedicated program that would provide technical and financial resources to facilitate research and data gathering on CECs relevant to California. Staff would work with the State Water Board, OEHHA, industry partners, and nonprofit organizations to develop the details of the program. The program would include, but not be limited to, the following elements:

- Review the state of knowledge and provide recommendations on CECs for further research and action in drinking water relevant to California.
- Identify CEC candidates to be considered for regulatory determination based on their presence in California and potential impacts on public health.
- Develop a systematic mechanism for prioritizing CECs based on potential health effects and known or anticipated occurrence.
- Develop a process for evaluating, standardizing, and validating analytical detection methods for CECs.
- Develop a risk-based screening program that identifies and evaluates CECs and appropriate indicators and/or surrogates in drinking water sources, and assesses their fate in the environment and potential for human exposure.
- Provide annual status reports on research activities and establish a centralized database of occurrence and health effects information.
- Provide guidance and recommendations based on scientific research to inform regulatory determinations and water agency management decisions.
- Provide multiple opportunities for stakeholder engagement.

The proposed CEC program would help streamline and inform existing regulatory processes, improving efficiencies, and filling data gaps that often delay current efforts. This would ensure a unified, consistent and science-based approach for assessing the public health and drinking water industry consequences of a broad spectrum of CECs, while identifying which CECs warrant further action. The program would provide increased transparency on the state's regulatory process for evaluating and prioritizing CECs. The program would also enhance coordination among water sector partners, including the State Water Board, OEHHA, industry, and academic institutions, but would not duplicate or interfere with existing state or federal agency efforts. Data generated through the program would help in developing future CEC monitoring strategies as necessary.

Metropolitan's Board-adopted Policy Principle on Drinking Water Quality and 2019 Federal and State Legislative Priorities and Principles support legislative efforts to utilize sound science in developing drinking water regulations and appropriate health effects research/data when setting drinking water standards.

Staff recommends that Metropolitan co-sponsor the proposed legislation, seek co-sponsorship with the California Municipal Utilities Association, and work proactively to ensure its passage. Contingent upon Board authorization to pursue this legislative proposal, Metropolitan would work with the State Water Board and industry partners to identify potential funding sources for establishing this program and facilitating research and data gathering.

Policy

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities.

By Minute Item 46191, dated April 12, 2005, Policy Principles for Drinking Water Quality.

By Minute Item 51418, dated December 11, 2018, Metropolitan 2019 State Legislative Priorities and Principles.

By Minute Item 51419, dated December 11, 2018, Metropolitan 2019 Federal Legislative Priorities and Principles.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves legislative proposals that do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Public Resources Code Sections 21065, 21083 and Section 15378(b)(1) of the State CEQA Guidelines).

CEQA determination for Option #2:

None required

Board Options

Option #1

Authorize the General Manager to co-sponsor legislation to create a statewide program to identify and evaluate drinking water quality constituents of emerging concern.

Fiscal Impact: The costs associated with sponsoring this bill in the state legislature will be absorbed within existing staffing and program budgets. If the proposed legislation is enacted into law, a full assessment of costs (or benefits) to implement and conduct the activities will be determined and provided to the CFO's office.

Business Analysis: Expressing support for the proposed legislation would allow Metropolitan to advocate for a streamlined and more efficient regulatory process and to establish a program to identify and prioritize CECs for further action.

Option #2

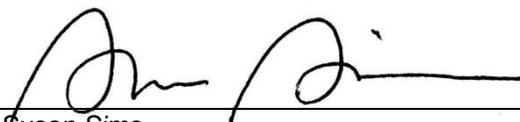
Do not authorize the General Manager to co-sponsor legislation to create a statewide CEC program.

Fiscal Impact: Unknown

Business Analysis: If Metropolitan does not advocate for the proposed legislation, the regulatory process associated with CECs will continue to be delayed, and the water industry will struggle to fully understand and communicate key issues and risks associated with CECs in drinking water supplies which could erode consumer confidence.

Staff Recommendation

Option # 1


 Susan Sims
 External Affairs, Manager
 10/28/2019
 Date


 Jeffrey Kightlinger
 General Manager
 10/30/2019
 Date