

# Activists Hope Suit Over Stalled California Chromium Limit Speeds EPA's | INSIDE EPA.COM

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Environmentalists are suing California in state court for failing to meet a statutory deadline for adopting an enforceable drinking water standard for the contaminant hexavalent chromium (Cr6), with hopes of also pushing EPA to hasten its efforts to set a national standard -- though the agency is still struggling to assess the substance's risks.

"Hopefully if California sets a standard, the federal government also will move more quickly, too," Sarah Janssen, a senior scientist with the Natural Resources Defense Council (NRDC), one of the groups suing the state's Department of Public Health (DPH), writes in an Aug. 14 blog.

NRDC and the Environmental Working Group (EWG) filed [the lawsuit](#) Aug. 14 in Alameda County Superior Court, arguing that DPH has failed to adopt a drinking water cleanup standard or maximum contaminant level (MCL) by the January 2004 deadline set by the legislature and that continued foot-dragging by state regulators is illegal.

The activists charge that DPH has inappropriately made less-urgent initiatives a priority over the MCL and contend that there is no reason why DPH cannot act quickly to adopt the standard. "More than a decade after the legislature ordered the department to act, and more than eight years after the statutory deadline for action passed, the department has not even proposed a hexavalent chromium drinking water standard," the lawsuit states. "The department presently estimates on its website that it will not publish a final drinking water standard . . . for at least another two to three years."

The state's Office of Environmental Health Hazard Assessment (OEHHA) last year finalized a long-awaited drinking water public health goal (PHG) for Cr6 of 0.02 parts per billion (ppb). The PHG, which will guide development of the MCL, is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure.

The PHG is believed to be the first such goal in the nation for Cr6 -- a naturally occurring metal that is also used in metal coating and as an anti-corrosive agent in other industrial processes -- and OEHHA says it reflects new research documenting that young children and other sensitive subpopulations are more susceptible than the general population to health risks from exposure to carcinogens.

But DPH last year said it may take as long as four years to develop and finalize the MCL, an announcement that drew criticism from environmentalists.

When OEHHA issued the PHG last year, environmentalists welcomed it in part because it relied on a conservative "linear" risk assessment method that assumes no safe level of exposure. They hoped that California's adoption of the method would bolster their effort to have EPA adopt a similar approach when crafting its pending risk assessment and drinking water standard.

But California's action prompted considerable concern from industry groups. In a statement, the American Chemistry Council (ACC) said the PHG level of 0.02 ppb is "premature" and is within the range of Cr6 that can occur naturally in water, particularly in the Western U.S. The PHG could cause confusion among the public and adversely impact local water utilities without public health benefits, the group said.

ACC and other industry groups also questioned whether use of the linear risk assessment method is appropriate. Like environmentalists, they too called for EPA to issue a national standard -- but unlike activists, they are hoping that the state will revise its assessment methodology and avoid use of the linear method.

Since the release of the OEHHA assessment, industry groups, led by the ACC, have persuaded EPA to delay development of its Cr6 assessment while it completes a study on the chemical's risks. Preliminary results from the study show the chemical is not mutagenic -- the policy basis for EPA's preliminary decision to use a linear risk method.

### **EPA Assessing Cr6**

Environmentalists' suit against California is the latest effort to press regulators to address Cr6. EWG, in 2010, published a report documenting test results of spot-drinking water samples around the country showing the presence of Cr6.

Within weeks, EPA Administrator Lisa Jackson announced that the agency would fast-track its ongoing Integrated Risk Information System (IRIS) assessment of Cr6, with a goal of completing it by the end of 2011 so the agency could propose a federal maximum contaminant level goal (MCLG), a limit that is equivalent to California's PHG.

But EPA's assessment is now stalled, awaiting the completion of a suite of industry-funded studies intended to better explain how Cr6 causes cancer. An advisory panel in May 2011 questioned a 2010 draft of the assessment, and several members urged EPA to await the results of the industry studies.

EPA's IRIS Track website now projects a completion date for the assessment in the fall of fiscal year 2015 -- a time line similar to that of California regulators.

In their lawsuit, the environmentalists are seeking to compel DPH to promulgate an enforceable MCL without further delay. At least one-third of drinking water sources sampled statewide are contaminated with Cr6 at concentrations higher than those that California deems to pose no significant public health risk, the activists contend.

"The department's failure to devote sufficient resources to develop the MCL . . . has contributed to the delay in issuing the primary drinking water standard for this chemical," the lawsuit says. "The department has allocated some resources that could have been allocated to the development of a hexavalent chromium MCL to other tasks for which the Legislature has not established any statutory deadlines, or to tasks for which the statutory deadlines are later than Jan. 1, 2004."

According to DPH's public timetable, the department would not publish a final MCL until July 2014 or July 2015, the lawsuit says. "[DPH] is capable of finalizing, and legally required to finalize, a primary drinking water standard for hexavalent chromium more quickly than its present public estimates," the lawsuit says.

A DPH spokesman said the agency has not seen the lawsuit and therefore cannot respond to it.