ST. CLAIR COUNTY HEALTH DEPARTMENT

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REGULATION 26-__

REGULATION REGARDING FLUORIDE ADDITION IN COMMUNITY WATER SUPPLIES

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Section 1: Title

This Regulation shall be known as the St. Clair County Fluoride Addition in Community Water Supplies Regulation (the "Regulation").

Section 2: Definitions

For purposes of this Regulation, the following definitions apply:

"Community Water Supply" means a community supply as defined by the Michigan Safe Drinking Water Act, 1976 PA 399, MCL §325.1002(c), meaning a public water supply that provides year-round service to not fewer than 15 living units or which regularly provides year-round service to not fewer than 25 residents, and which is synonymous with the terms "community water supply" and "community water system" as used in Michigan Administrative Code R 325.10103(i) and with the term "community water system" as defined by the federal Safe Drinking Water Act, 42 U.S.C. §300f(15), that is: (i) located in whole or in part within St. Clair County, Michigan; and (ii) supplies, delivers, or distributes treated drinking water to one or more Residents of St. Clair County, whether directly or through interconnection with another water system. This definition includes, but is not limited to, water treatment plants and water distribution systems operated by municipalities, townships, authorities, or other public or private entities meeting the foregoing criteria.

"EPA" means the United States Environmental Protection Agency, or any successor federal agency responsible for administering the Safe Drinking Water Act.

"Fluoride Addition" means the intentional introduction of any form of fluoride compound, including but not limited to fluorosilicic acid (hydrofluorosilicic acid), sodium fluorosilicate, or sodium fluoride, into a Community Water Supply's treated water for the purpose of increasing the fluoride concentration above the naturally occurring level.

"Health Department" means the St. Clair County Health Department.

"Health Officer" means the Health Officer of the St. Clair County Health Department, or his or her designee.

"Maximum Contaminant Level Goal" or "MCLG" means the maximum contaminant level goal for fluoride as established, and as may from time to time be revised, by the EPA pursuant to Section 1412(b)(4)(A) of the Safe Drinking Water Act, 42 U.S.C. §300g-1(b)(4)(A), as published in the Code of Federal Regulations or the Federal Register. As of the effective date of this Regulation, the MCLG for fluoride is 4.0 mg/L (milligrams per liter), as set forth at 40 C.F.R. §141.51(b). Any future revision of the MCLG by the EPA shall automatically be

incorporated into and govern this Regulation upon the effective date of such revision under federal law, without the need for further action by the Health Department, the Health Officer, or the St. Clair County Board of Commissioners.

"Naturally Occurring Fluoride" means fluoride present in source water as a result of natural geological processes, without intentional human introduction.

"Resident of St. Clair County" means any natural person who resides within the geographic boundaries of St. Clair County, Michigan, including any person residing in a dwelling unit that receives its drinking water from a Community Water Supply.

Section 3: <u>Authority</u>

This Regulation is adopted pursuant to the authority conferred upon local health departments by the Michigan Public Health Code (the "Code"), 1978 PA 368, as amended. The St. Clair County Health Department (the "Health Department") is a local health department as defined by the Code.

The Code requires the Health Department to "continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including prevention and control of environmental health hazards; prevention and control of diseases; prevention and control of health problems of particularly vulnerable population groups. . ." MCL §333.2433(1).

Michigan Administrative Code R 325.13001(d) provides that the medical director of a local health department shall "provide direction in the formulation of medical public health policy and program operation" and shall advise "the administrative health officer on matters related to medical specialty judgments."

The Code provides that the Health Department may adopt regulations to "properly safeguard the public health and to prevent the spread of diseases and sources of contamination." MCL §333.2435(d). The Code further authorizes the Health Department to "adopt regulations necessary or appropriate to implement or carry out the duties or functions vested by law in the local health department." MCL §333.2441. Regulations adopted by the Health Department "shall be at least as stringent as the standard established by state law applicable to the same or similar subject matter" and "supersede inconsistent or conflicting local ordinances." MCL §333.2441.

Before adoption of a regulation, the Health Department shall give notice of a public hearing and offer any person an opportunity to present data, views, and arguments, as required by MCL §333.2442. Regulations shall be approved or disapproved by the local governing entity. MCL §333.2441~~(1)~~.

To ensure compliance with the laws enforced by the Health Department, the Health Department “may inspect, investigate, or authorize an inspection or investigation to be made of, any matter, thing, premise, place, person, record, vehicle, incident, or event.” MCL §333.2446.

The Michigan Safe Drinking Water Act, 1976 PA 399, as amended ("Act 399") (MCL §325.1001 et seq.), and Michigan Administrative Rules promulgated thereunder (R 325.10101 et seq.), establish standards and criteria for public water supplies within the State of Michigan that are consistent and compatible with the federal Safe Drinking Water Act. Act 399 defines a "community supply" as "a public water supply that provides year-round service to not fewer than

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15 living units or which regularly provides year-round service to not fewer than 25 residents." MCL §325.1002(c). Michigan Administrative Code R 325.10103(i) treats the terms "community supply," "community water supply," and "community water system" as synonymous.

The federal Safe Drinking Water Act ("SDWA"), 42 U.S.C. §300f et seq., requires the Administrator of the U.S. Environmental Protection Agency ("EPA") to establish Maximum Contaminant Level Goals ("MCLGs") for contaminants in public water systems. Pursuant to 42 U.S.C. §300g-1(b)(4)(A), "[e]ach maximum contaminant level goal established under this subsection shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety." The SDWA defines a "community water system" as a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. 42 U.S.C. §300f(15). The SDWA further requires the EPA to review and revise, as appropriate, each national primary drinking water regulation not less than every six years. 42 U.S.C. §300g-1(b)(9).

This Regulation is a supplemental exercise of the Health Department's independent authority under the Michigan Public Health Code and does not duplicate, supplant, or conflict with the Michigan Safe Drinking Water Act (1976 PA 399) or the permitting, monitoring, or enforcement authority of EGLE. The Regulation operates concurrently with Act 399 and addresses a distinct public-health concern—the intentional addition of a chemical to drinking water delivered to St. Clair County residents—while leaving all EGLE-issued permits, construction approvals, and MCL compliance obligations intact.

Nothing in this Regulation constitutes an "order" to any ""county, city, township, village, or any combination thereof to add fluoride"" within the meaning of MCL §333.12721(1). The Regulation instead establishes a health-protective standard for voluntary Fluoride Addition, with compliance achieved either by maintaining fluoride levels at or below the MCLG or by declaring to the Health Department the Community Water Supply's election to continue Fluoride Addition above the MCLG, thereby triggering public notification as provided in Section 6(e) and (f). This is consistent with the Health Department's mandate to protect vulnerable populations under MCL §333.2433(1) and §333.2441.

Section 4: Jurisdiction and Enforcement

This Regulation applies to any Community Water Supply, as defined herein, that is located in whole or in part within St. Clair County, Michigan, and which supplies, delivers, or distributes treated drinking water to any Resident of St. Clair County. The Health Officer shall be responsible for administering and enforcing this Regulation, including all amendments hereafter adopted unless otherwise expressly stated. Where a Community Water Supply delivers water that has been treated by another Community Water Supply, the obligations of this Regulation with respect to Fluoride Addition apply to the Community Water Supply that performs the Fluoride Addition.

Section 5: Purpose and Findings

In support of this Regulation, the St. Clair County Health Department hereby finds and declares the following:

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1. The Code mandates that the Health Department exercise its authority to address "health problems of particularly vulnerable population groups." MCL §333.2433(1). Pregnant women, infants, and children represent particularly vulnerable population groups with respect to potential adverse health effects from fluoride exposure. The EPA has recognized that the developing brain is more susceptible to injury from chemical exposures than the adult brain, and that children may be at greater risk of adverse effects from contaminants in drinking water. In April 2025, the EPA Administrator directed the agency to expedite its review of potential health risks from fluoride in drinking water under the Safe Drinking Water Act, four years ahead of the normal review cycle.[1] In January 2026, the EPA released its Preliminary Assessment Plan and Literature Survey for a new Human Health Toxicity Assessment of fluoride, confirming the agency's focus on potential adverse effects including impacts on brain development and tooth development.[2] The assessment plan confirms the agency's intent to evaluate children's health effects—including neurodevelopmental effects and dental fluorosis—as the most sensitive endpoints, and to consider prenatal (in utero) and early childhood exposure as key windows of vulnerability.

2. In August 2024, the U.S. Department of Health and Human Services' National Toxicology Program ("NTP") published a systematic review concluding, "with moderate confidence, that higher estimated fluoride exposures ... are consistently associated with lower IQ in children."[3] The NTP found that there were insufficient data to determine if the fluoride level of 0.7 mg/L currently recommended for U.S. community water supplies has a negative effect on children's IQ, and noted that more research is needed to better understand if there are health risks associated with low fluoride exposures. The NTP further noted that total fluoride exposure can vary widely even in optimally fluoridated areas based on multiple sources, including drinking water, food, beverages, and dental products.

3. On September 24, 2024, the U.S. District Court for the Northern District of California ruled that public water system fluoridation at 0.7 mg/L poses an "unreasonable risk of injury to health" under the Amended Toxic Substances Control Act, requiring the EPA to propose and develop regulations to address the identified unreasonable risk. On May 21, 2026, in an unpublished memorandum disposition, the U.S. Court of Appeals for the Ninth Circuit vacated that decision, holding that the district court had abused its discretion under the party presentation principle, and remanded the case for the district court to rule based solely on the first trial record and to consider in the first instance EPA's judicial notice request bearing on the plaintiffs' standing. The Ninth Circuit also held that, in the circumstances of that case, the district court did not err in relying on evidence not included in the plaintiffs' 2016 petition in the first trial; it did not reach the question whether fluoridation at 0.7 mg/L presents an unreasonable risk to human health.[4]

4. Peer-reviewed epidemiological studies have found associations between prenatal and early childhood fluoride exposure, at levels comparable to those found among pregnant women and children in the United States, and reduced cognitive development.[5,6] A 2025 systematic review and meta-analysis of 74 epidemiological studies published in *JAMA Pediatrics* confirmed significant inverse associations between fluoride exposure and children's IQ scores across multiple countries, exposure measures, and study designs.[7]

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5. In its Fourth Six-Year Review ("SYR4"), published in 2024, the EPA identified a potential revised MCLG of 0.9 mg/L for fluoride, substantially below the current MCLG of 4.0 mg/L established in 1986.[8] In April 2025, following the federal court ruling described in Finding 3, EPA Administrator Lee Zeldin directed the agency to expedite its next fluoride health assessment under the SDWA, four years ahead of the normal six-year review cycle.[1]

6. In 2006, the National Research Council ("NRC") of the National Academies concluded unanimously that the EPA's MCLG of 4.0 mg/L for fluoride should be lowered, finding that it was not protective against severe enamel fluorosis and that a majority of the committee concluded it was not likely to be protective against bone fractures.[9]

7. The EPA's current MCLG for fluoride is 4.0 mg/L, established in 1986 on the basis of a lowest-observed-adverse-effect level ("LOAEL") of 20 mg/day for crippling (stage III) skeletal fluorosis, with the application of a safety factor of only 2.5.[10] This safety factor is substantially lower than the standard uncertainty factors used in EPA risk assessment practice for other drinking water contaminants. For noncarcinogenic contaminants, EPA's standard methodology applies default uncertainty factors of 10 for intraspecies (human) variability and additional factors for use of a LOAEL rather than a no-observed-adverse-effect level ("NOAEL"), interspecies extrapolation, and database deficiencies, as applicable.[11] In the fluoride litigation, the EPA's own expert witness on risk assessment testified that an uncertainty factor of ten "is appropriate for all life stages" and "would be the benchmark" margin of exposure for fluoride.[12] In sworn testimony, the EPA's designated representative on fluoride risk assessment further acknowledged that the agency declined to apply standard uncertainty factors to fluoride in order to avoid setting a reference dose below the level considered necessary for caries prevention.[13]

8. Application of standard EPA uncertainty factors to the available evidence on fluoride's health effects has the potential to produce an MCLG substantially below the current level at which Community Water Supplies add fluoride (0.7 mg/L). Specifically, the NTP report and other evidence identify consistent associations between fluoride exposure and neurodevelopmental effects at concentrations at or above 1.5 mg/L in drinking water.[14] The European Food Safety Authority independently adopted 1.5 mg/L as its reference point for developmental neurotoxicity in its July 2025 updated consumer risk assessment, concluding that current EU drinking water limits may not adequately protect against aggregate fluoride exposure from all sources.[15] For illustrative purposes, application of the EPA's standard default intraspecies uncertainty factor of 10 to a point of departure of 1.5 mg/L would yield a health-protective level of 0.15 mg/L. Even a reduced uncertainty factor of 3, which EPA applies when some but not complete information is available regarding human variability, applied to the same point of departure, would yield a level of 0.5 mg/L. Either result would be below the 0.7 mg/L at which Community Water Supplies in St. Clair County currently add fluoride. These calculations are illustrative of the potential trajectory of federal regulatory science; the actual revised MCLG, if any, will be established by the EPA through its own rulemaking process.

9. The Health Department acknowledges that the U.S. Centers for Disease Control and Prevention ("CDC"), the American Dental Association ("ADA"), and the U.S. Public Health Service ("USPHS") have endorsed community water fluoridation at 0.7 mg/L for the prevention of dental caries.[16,17,18] The USPHS recommended level has declined over

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time, from a range of 0.7 to 1.2 mg/L established in 1962 to the current single value of 0.7 mg/L adopted in 2015, reflecting evolving understanding of fluoride's risks and the increased prevalence of fluoride exposure from other sources. This Regulation does not prohibit community water fluoridation and does not require any immediate change to current fluoridation practices. The Health Department adopts this Regulation to ensure that Fluoride Addition in Community Water Supplies within St. Clair County is aligned with the EPA's health-protective MCLG, or, where a Community Water Supply elects to continue Fluoride Addition above the MCLG, that affected municipalities and the public are notified of the associated health risks, as that standard is updated through the ongoing accelerated regulatory review.

10. The Health Department has considered the documented benefits of community water fluoridation for oral health, including its role in reducing the incidence of dental caries, particularly among populations with limited access to dental care. The Health Department finds that these benefits do not require the Health Department to permit Fluoride Addition at levels exceeding the EPA's health-protective MCLG without ensuring that affected municipalities and the public are notified of the associated health risks, because: (a) Community Water Supplies within St. Clair County that add fluoride currently operate at or near the U.S. Public Health Service's recommended level of 0.7 mg/L, which is substantially below the current MCLG of 4.0 mg/L, and this Regulation therefore requires no immediate change to current fluoridation practices; (b) any future restriction on Fluoride Addition under this Regulation would occur only upon a formal revision of the MCLG by the EPA through notice-and-comment rulemaking under the SDWA; and (c) the oral health benefits historically associated with community water fluoridation may be achieved through alternative means, including topical fluoride applications, fluoride toothpaste, and targeted dental sealant and varnish programs, which deliver fluoride to the tooth surface without systemic ingestion.

11. The use of health-based goals as regulatory benchmarks for drinking water contaminants is well established in state and federal practice. Under the SDWA, states may adopt drinking water standards that are more stringent than federal MCLs,[19] and multiple states have done so. For example, New Jersey has established enforceable state drinking water standards for per- and polyfluoroalkyl substances (PFAS) that are more stringent than federal standards, based on health-protective assessments rather than feasibility compromises.[20] California law requires that state drinking water standards be set "as close to the corresponding public health goal as is technologically and economically feasible,"[21] and mandates that water systems exceeding public health goals (the state equivalent of federal MCLGs) prepare public reports and hold public hearings regarding the exceedance.[22] The approach taken in this Regulation—adopting the federal MCLG as the benchmark for the maximum permissible level of an intentionally added contaminant—is consistent with these established practices and represents a less restrictive approach than that taken by jurisdictions that have adopted enforceable standards more stringent than the federal MCLG itself.

12. Under the SDWA, the MCLG is defined as "the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety." 42 U.S.C. §300g-1(b)(4)(A). The MCLG is thus the federal standard that represents the health-protective goal for a contaminant in drinking water, established on

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the basis of health considerations alone, without regard to cost, technical feasibility, or the limitations of detection and treatment technology. In setting the MCLG, the EPA is required to consider adverse health risks to sensitive subpopulations, including infants, children, the elderly, and those with compromised immune systems. The MCLG is the most appropriate benchmark against which to regulate the intentional addition of a contaminant to drinking water, because, unlike the MCL, it reflects no compromise between health protection and economic or technical considerations. The Health Department's authority to adopt the MCLG as the applicable benchmark is independently supported by the Code's mandate to address health problems of vulnerable population groups. MCL §333.2433(1).

13. By contrast, the MCL under the SDWA is set "as close to the [MCLG] as is feasible," taking into account cost and the best available treatment technology. 42 U.S.C. §300g-1(b)(4)(B). The MCL thus reflects a balance between health protection and the practical constraints of removing contaminants that are already present in drinking water. For contaminants that are naturally occurring or arise as disinfection byproducts, the MCL appropriately allows systems to operate at levels above the MCLG where removal to the MCLG level is not technically or economically feasible. However, the feasibility and cost considerations that justify setting an MCL above the MCLG for contaminants that must be removed from source water do not apply in the same manner to contaminants that are voluntarily introduced through treatment.

14. For fluoride, the current MCL and MCLG are both set at 4.0 mg/L, a level established in 1986 on the basis of the health effects of crippling skeletal fluorosis. This regulatory parity reflects the technical feasibility of removing fluoride to 4.0 mg/L, not a scientific determination that 4.0 mg/L is health-protective for all populations and all health endpoints. As documented in Findings 5 and 6 of this Regulation, the EPA's own Fourth Six-Year Review in 2024 identified a potential revised MCLG of 0.9 mg/L, and the National Research Council unanimously concluded in 2006 that the MCLG of 4.0 mg/L should be lowered. The EPA's ongoing accelerated review is expected to derive a noncancer reference dose for fluoride that will inform a revised MCLG. Should the revised MCLG fall below the level at which Community Water Supplies currently add fluoride, those systems would need to reduce or cease Fluoride Addition, or elect the notification pathway established in Section 6(e), to comply with this Regulation. This prospective mechanism ensures that the local standard remains automatically aligned with the latest federal health science without imposing any regulatory burden on Community Water Supplies in the interim.

15. The State of Michigan, through the Michigan Department of Environment, Great Lakes, and Energy ("EGLE") and the Michigan Department of Health and Human Services ("MDHHS"), currently supports community water fluoridation at the recommended level of 0.7 mg/L.[23] The Michigan Safe Drinking Water Act (Act 399) and the administrative rules promulgated thereunder (R 325.10101 et seq.) adopt by reference the federal maximum contaminant levels, including the fluoride MCL of 4.0 mg/L, but do not establish an independent state standard that is more stringent than the federal standard with respect to the addition of fluoride to drinking water.

16. This Regulation is at least as stringent as the standard established by state law applicable to the same or similar subject matter, as required by MCL §333.2441, because it does not

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authorize Fluoride Addition at levels above the EPA's MCLG, which is the federal standard incorporated by reference in Michigan's drinking water regulations. This Regulation does not conflict with any provision of the Michigan Safe Drinking Water Act, which does not mandate that any community water supply add fluoride to its water. This Regulation requires no Community Water Supply to add fluoride, install new equipment, or alter any EGLE-approved treatment process; it provides only that a Community Water Supply engaging in voluntary Fluoride Addition above the EPA's then-current MCLG must either reduce fluoride levels to comply with the MCLG or declare its election to continue, thereby triggering the Health Department's public notification obligations under Section 6(e) and (f).

17. The decision of whether to add fluoride to a community water supply has historically been a matter of local authority. Neither federal law nor Michigan law requires any community water supply to fluoridate its drinking water. The SDWA expressly provides that "[n]o national primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to contamination of drinking water." 42 U.S.C. §300g-1(b)(11).
18. The right of the public to be informed about the quality of their drinking water, including the presence of intentionally added substances at levels exceeding federal health-protective benchmarks, is a fundamental principle of public health practice reflected in the SDWA's Public Notification Rule.[24] Under the Toxic Substances Control Act, Section 6(a), education and notification are among the regulatory responses available to address an identified unreasonable risk to health. 15 U.S.C. §2605(a)(3), (a)(7).[4]
19. A county health department regulation adopted pursuant to MCL §333.2441 regarding water quality takes precedence over and supersedes conflicting or inconsistent provisions of local ordinances.[25]
20. Consistent with the Health Department's duties under MCL §333.2433(1) to address health problems of particularly vulnerable population groups, and in light of the federal regulatory developments described in the foregoing findings, the Health Department finds it necessary and appropriate to adopt this Regulation.
21. This Regulation does not prohibit fluoridation. It establishes a health-protective standard for Fluoride Addition consistent with the EPA's MCLG and provides that Community Water Supplies that elect to continue Fluoride Addition above that standard must notify the Health Department so that affected municipalities and the public may be informed of the associated health risks.

Section 6: <u>Fluoride Addition Standard</u>

(a) Unless a Community Water Supply provides written notice to the Health Department as set forth in subsection (e), on the form described therein, no Community Water Supply subject to this Regulation shall engage in Fluoride Addition such that the total fluoride concentration in the treated drinking water delivered to Residents of St. Clair County exceeds the EPA's then-current MCLG for fluoride, as defined in Section 2 of this Regulation.

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(b) For the avoidance of doubt, the standard established in subsection (a) shall automatically adjust to reflect any revision to the MCLG for fluoride by the EPA. In the event that the EPA revises the MCLG for fluoride to a level below the fluoride concentration at which a Community Water Supply is currently engaging in Fluoride Addition, such Community Water Supply shall, within ninety (90) days of the effective date of such revised MCLG under federal law, either (i) reduce or discontinue Fluoride Addition as necessary to ensure that the total fluoride concentration in its treated drinking water does not exceed the revised MCLG, or (ii) comply with the notification requirements of subsection (e), on the form described therein. For purposes of this Section, the effective date of a revised MCLG under federal law means the date on which the revised MCLG is effective and enforceable under the Safe Drinking Water Act, and does not include any period during which the revised MCLG is stayed, enjoined, or vacated by a court of competent jurisdiction. Failure to satisfy either option within the ninety-day period shall constitute a violation of this Regulation.

(c) Nothing in this Regulation shall be construed to require any Community Water Supply to remove or reduce Naturally Occurring Fluoride, except to the extent separately required by the EPA's maximum contaminant level ("MCL") for fluoride under the Safe Drinking Water Act or by the Michigan Safe Drinking Water Act and the administrative rules promulgated thereunder.

(d) Nothing in this Regulation shall be construed to prohibit any Community Water Supply from voluntarily maintaining Fluoride Addition at any level at or below the then-current MCLG.

(e) Notwithstanding subsection (a), a Community Water Supply that elects to continue Fluoride Addition resulting in total fluoride concentrations exceeding the EPA's then-current MCLG may comply with this Regulation by providing written notice to the Health Department, within ninety (90) days of the effective date of the revised MCLG, on a form provided by the Health Department, stating that the Community Water Supply elects to continue Fluoride Addition to drinking water delivered to Residents of St. Clair County at a concentration exceeding the EPA's health-protective MCLG. Upon receipt of such notice, the Health Department shall provide the educational document described in subsection (f) to each affected municipality and shall make such notice publicly available. A Community Water Supply that elects to continue Fluoride Addition at total fluoride concentrations exceeding the EPA's then-current MCLG and provides written notice, on the form provided by the Health Department pursuant to this subsection, shall be exempt from any enforcement action under this Regulation with respect to such Fluoride Addition.

(f) In the event that the EPA revises the MCLG for fluoride to a level below that in effect on the effective date of this Regulation, the Health Department shall, within thirty (30) days of the effective date of such revision under federal law, prepare and make publicly available an educational document summarizing the health risks associated with fluoride exposure at levels exceeding the revised MCLG, as identified by the EPA. The Health Department shall update such document within thirty (30) days of any subsequent revision to the MCLG or publication of significant new findings by the EPA regarding fluoride's health effects.

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Section 7: Enforcement

The Health Officer, or his or her designee, shall enforce this Regulation with respect to all Community Water Supplies subject to its jurisdiction. Violations of this Regulation shall be considered a public nuisance. The Health Department may issue an order to avoid, correct, or remove any violation of this Regulation and, if such order is not complied with, proceed with all remedies available under the Code, including those set forth in MCL §333.2455.

Section 8: Violations and Penalties

(a) The primary enforcement mechanism for violations of this Regulation shall be civil penalties and administrative orders. Pursuant to MCL §333.2463~~1~~1(1), a civil penalty of $500.00 per day of non-compliance is hereby established for violations of this Regulation, including but not limited to failure to comply with Section 6(b) or to provide written notice under Section 6(e), on the form described therein, within the time periods specified therein, or failure to comply with a lawful order of the Health Officer issued under this Regulation.

(b) Citations for civil penalties under this Section may be issued by the Health Officer or a designated representative of the Health Department pursuant to MCL §333.2461(2). An alleged violator may petition for an administrative hearing pursuant to MCL §333.2462.

(c) Pursuant to MCL §333.24~~41(2)~~43, a violation of this Regulation is a misdemeanor. However, the Health Department shall pursue civil penalties and administrative remedies as the primary means of enforcement and shall not refer a violation for criminal prosecution except in cases of willful and repeated non-compliance following exhaustion of civil remedies under this Section.

(d) The Health Officer may seek injunctive relief pursuant to MCL §333.2465 to restrain, prevent, or correct any violation of this Regulation.

Section 9: Construction and Savings

(a) This Regulation shall be construed in harmony with the Michigan Public Health Code, the Michigan Safe Drinking Water Act, and the federal Safe Drinking Water Act. Nothing in this Regulation shall be construed to limit, abridge, or otherwise affect the authority of any municipality or other supplier of water to make its own determination regarding whether to engage in Fluoride Addition, provided that any such Fluoride Addition complies with the requirements of Section 6 of this Regulation.

(b) Nothing in this Regulation shall be construed to affect or limit any obligations imposed on Community Water Supplies under the Michigan Safe Drinking Water Act (1976 PA 399), the federal Safe Drinking Water Act (42 U.S.C. §300f et seq.), or regulations promulgated thereunder.

(c) Nothing in this Regulation shall be construed to create, expand, or modify any private right of action. Enforcement of this Regulation shall be vested exclusively in the

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Health Department and, where applicable, in the St. Clair County Board of Commissioners and the prosecuting attorney.

(d) A Community Water Supply that is in compliance with this Regulation on its effective date, including any Community Water Supply that engages in Fluoride Addition at or below the then-current MCLG, shall be deemed to be in compliance with this Regulation and shall not be subject to any enforcement action under this Regulation with respect to its current Fluoride Addition practices, unless and until the MCLG is revised and such Community Water Supply fails to achieve compliance with the revised standard through either the requirements of Section 6(b) or by providing written notice under Section 6(e), on the form described therein, within the time periods specified therein.

(e) This Regulation supplements, and does not conflict with, the regulatory oversight exercised by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and the Michigan Department of Health and Human Services (MDHHS) over community water supplies under Act 399 and the administrative rules promulgated thereunder. Community Water Supplies subject to this Regulation shall continue to comply with all applicable state requirements regarding water treatment, fluoridation practices, monitoring, reporting, and public notification. In the event of any direct conflict between this Regulation and any requirement imposed by state law, this Regulation shall be construed to avoid such conflict. Nothing in this Regulation shall be construed to preempt, supplant, or diminish the authority of EGLE or MDHHS to administer and enforce the Michigan Safe Drinking Water Act within St. Clair County. This Regulation does not apply to, and shall not be construed to interfere with, any fluoride-related enforcement action taken by EGLE directly pursuant to its authority under the Michigan Safe Drinking Water Act.

(f) This Regulation applies to Community Water Supplies as defined in Section 2, including regional water authorities and multi-jurisdictional water systems incorporated under the Municipal Sewage and Water Supply Systems Act (1955 PA 233, MCL §124.281 et seq.) or any other applicable statute, to the extent that such systems supply, deliver, or distribute treated drinking water to Residents of St. Clair County. Nothing in 1955 PA 233 or any intergovernmental agreement, contract, or lease executed thereunder shall be construed to exempt a Community Water Supply from compliance with health regulations duly adopted by the Health Department pursuant to the Michigan Public Health Code, MCL §333.2441. This Regulation regulates only Fluoride Addition to treated drinking water delivered to Residents of St. Clair County and does not purport to regulate the operations of any Community Water Supply with respect to water delivered to residents of other counties. Nothing in this Regulation shall be construed to authorize, justify, or provide a basis for the discontinuation or reduction of water service by any Community Water Supply to any community within St. Clair County.

Section 10: <u>Severability</u>

If any provision, clause, sentence, or paragraph of this Regulation or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the

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other provisions of this Regulation which can be given effect without the invalid provision or application, and to this end the provisions of this Regulation are declared to be severable.

Section 11: Effective Date

This Regulation shall become effective ~~upon~~45 days after approval by the St. Clair County Board of Commissioners, as the local governing entity of the Health Department, pursuant to MCL §333.2441, or at such other date as the Board of Commissioners may specify.

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Endnotes

1. U.S. Environmental Protection Agency, Press Release: "EPA Will Expeditiously Review New Science on Fluoride in Drinking Water" (April 7, 2025), announcing Administrator Zeldin's directive to expedite the fluoride health assessment four years ahead of the normal SDWA review cycle. https://www.epa.gov/newsreleases/epa-will-expeditiously-review-new-science-fluoride-drinking-water

2. U.S. Environmental Protection Agency, *Human Health Toxicity Assessment Preliminary Assessment Plan and Literature Survey for Fluoride* (Washington, DC: EPA, January 22, 2026), outlining the agency's plan to develop a final noncancer reference dose for oral fluoride exposure to inform potential revisions to fluoride drinking water regulations. https://www.epa.gov/system/files/documents/2026-01/fluoride-human-health-toxicity-assessment-preliminary-assessment-plan-and-literature-survey-1-22-26.pdf

3. National Toxicology Program, *NTP Monograph on the State of the Science Concerning Fluoride Exposure and Neurodevelopment and Cognition: A Systematic Review* (Research Triangle Park, NC: National Institute of Environmental Health Sciences, August 2024). https://ntp.niehs.nih.gov/publications/monographs/mgraph08

4. U.S. District Court, Northern District of California, *Food & Water Watch, Inc., et al. v. U.S. Environmental Protection Agency*, Case No. 17-cv-02162-EMC, Findings of Fact and Conclusions of Law (September 24, 2024). https://www.foodandwaterwatch.org/wp-content/uploads/2024/09/2024.09.24-Opinion.pdf; vacated and remanded, *Food & Water Watch v. U.S. Environmental Protection Agency*, No. 25-384 (9th Cir. May 21, 2026) (unpublished memorandum). https://cdn.ca9.uscourts.gov/datastore/memoranda/2026/05/21/25-384.pdf

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10. U.S. Environmental Protection Agency, "Fluoride in Drinking Water," noting the current MCL and MCLG of 4.0 mg/L, established 1986, using a safety factor of 2.5 applied to a LOAEL of 20 mg/day for crippling skeletal fluorosis. https://www.epa.gov/sdwa/fluoride-drinking-water

11. National Research Council, *Fluoride in Drinking Water*, Chapter 11 (2006), at ~~346–350~~341, 345, explaining that for noncarcinogenic contaminants, uncertainty factors typically range from 1 to 10, with a default value of 10 when information is sparse; noting that the 1986 fluoride MCLG was calculated without a reference dose and using a safety factor of only 2.5, which was selected to agree with a prior Surgeon General recommendation rather than derived through standard risk assessment methodology. https://www.nationalacademies.org/read/11571/chapter/13

12. Testimony of Dr. Stanley Barone, EPA Risk Assessment Expert, in *Food & Water Watch, Inc., et al. v. U.S. EPA*, Case No. 17-cv-02162-EMC, N.D. Cal. (stating that an uncertainty factor of ten "is appropriate for all life stages, inclusive of all life stages and vulnerabilities" and "would be the benchmark" margin of exposure). See Plaintiffs' Trial Brief, ECF No. 379 (December 22, 2023), at 3–4, summarizing Dr. Barone's deposition testimony. https://www.eli.org/sites/default/files/files-general/Panel%204%20-%20Food%20%26%20Water%20Watch%2C%20et%20al.%2C%20v.%20EPA%20Plaintiffs%20Trial%20Brief.pdf

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13. Deposition of Dr. Edward Ohanian, EPA's designated representative on fluoride risk assessment, in *Food & Water Watch, Inc., et al. v. U.S. EPA*, Case No. 17-cv-02162-EMC, N.D. Cal. (October 15, 2018), at 205, 291–292, 329 (acknowledging that EPA declined to apply standard uncertainty factors to fluoride because doing so "will interfere with caries prevention programs" and would "put the reference dose below the so-called optimal dose for fluoride ingestion"). See also Deposition Transcript of Dr. Ohanian, at 206 (agreeing that a database uncertainty factor for fluoride's neurodevelopmental effects was warranted but was not applied because of "the caries prevention goal"). ~~https://www.foodandwaterwatch.org/wp-content/uploads/2024/09/2024.09.24-Opinion.pdf~~Excerpts reproduced in Fluoride Action Network, Comments on Docket No. EPA-HQ-OW-2025-3823 (February 26, 2026), at 2–3. https://fluoridealert.org/wp-content/uploads/2026/02/FAN-Comments-to-EPA.pdf

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15. European Food Safety Authority, "Updated Consumer Risk Assessment of Fluoride in Food and Drinking Water Including the Contribution from Other Sources of Oral Exposure," *EFSA Journal* 23, no. 7 (2025): e9478, adopting 1.5 mg/L in drinking water as the reference point for developmental neurotoxicity and concluding that fluoride exposure at the EU drinking water limit of 1.5 mg/L would exceed the newly established safe intake levels. DOI: 10.2903/j.efsa.2025.9478. https://efsa.onlinelibrary.wiley.com/doi/10.2903/j.efsa.2025.9478

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20. New Jersey Department of Environmental Protection, N.J.A.C. 7:10-5.2, "Discretionary Changes to National Regulations," establishing state MCLs for PFNA (13 ppt), PFOA (14 ppt), and PFOS (13 ppt) more stringent than federal standards, based on health-based criteria. https://www.law.cornell.edu/regulations/new-jersey/N-J-A-C-7-10-5-2

21. California Health and Safety Code §116365(a) (Calderon-Sher Safe Drinking Water Act of 1996), requiring state drinking water standards to be set as close to the corresponding public health goal as is technologically and economically feasible. See California State Water Resources Control Board, "Comparison of MCLs and PHGs for Regulated Contaminants in Drinking Water." https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/MCLsandPHGs.html

22. California Health and Safety Code §116470(b), requiring public water systems serving more than 10,000 service connections to prepare triennial reports and hold public hearings when contaminant levels exceed public health goals or, where no PHG has been adopted, the federal MCLG. See California State Water Resources Control Board, "Consumer Confidence Reports (CCRs)." https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/CCR.html

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25. Michigan Attorney General Opinion No. 6898 (May 1, 1996), confirming county health department regulations supersede inconsistent or conflicting township ordinances under MCL 333.2441. https://www.ag.state.mi.us/opinion/datafiles/1990s/op06898.htm

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