

## PFC Regulation Begins in California

The California Office of Environmental Health Hazard Assessment (OEHHA) [announced on November 9, 2017](#) that it was adding two widely used perfluorinated chemicals to the Proposition 65 list of chemicals known to cause reproductive toxicity: perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). Typically used for their heat, water, oil, and stain resistant properties, PFOA and PFOS are incorporated into a wide variety of consumer and industrial products such as waterproof clothing, non-stick cooking utensils, food containers, furniture, carpets, firefighting foam, and waterproofing paints and coatings. PFOA is namely the key ingredient used in making Teflon. This regulation will affect manufacturers and distributors of these products across the nation.

PFOA and PFOS recently gained national notoriety due to a significant increase in litigation involving manufacturers, military bases, water suppliers, local communities, and the alleged exposures to PFOA and PFOS air and water contamination. In February 2017, DuPont and Chemours reached a \$670.7 million settlement for exposing Parkersburg, West Virginia residents to PFOA through releases to the environment. In October 2017, Saint Gobain reached a \$20 million settlement for similar exposures in North Bennington, Vermont. The U.S. Environmental Protection Agency has a 70 parts per trillion advisory limit for PFOA, but other states have recently taken more aggressive approaches to regulating PFOA and PFOS. California, being one state with the highest detections of PFAS in the environment, is now among those states.

Proposition 65 prohibits the exposure of any California resident to a chemical known to cause cancer or reproductive toxicity without first giving a clear and reasonable warning. Though less commonly used for this purpose, Proposition 65 also regulates the discharge or release of carcinogens or reproductive toxicants into drinking water. Once a chemical is listed, businesses have 12-months to comply with the California warning requirements and 20-months to comply with the water discharge requirements. Thus, the effective dates under Proposition 65 for requiring warnings and prohibiting discharges to drinking water are November 10, 2018 and July 10, 2019, respectively. Given the prevalence of PFOA and PFOS in consumer products and the environment, California businesses should use this time to



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assess whether OEHHA's new PFOA and PFOS regulations will affect their supply chains and water supplies.

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