

New PFAS Regulations Work Dramatic Changes to California's Drinking Water Supplies — With More Changes Likely to Follow

Long considered “emerging contaminants,” per- and polyfluoroalkyl substances (PFAS) have now emerged. And water agencies throughout California must take heed.

[As we last reported](#), in November 2017, the California Office of Environmental Health Hazard Assessment (OEHHA) added two widely used PFAS compounds to the Proposition 65 list of chemicals known to cause reproductive toxicity: perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). Since then, there have been significant further regulatory developments in California.

AB 756, codified as section 116378 of the Health & Safety Code as part of the California Safe Drinking Water Act, went into effect January 1, 2020. AB 756 authorizes the State Water Resources Control Board (State Board) to order certain public water systems to monitor for PFAS. AB 756 also requires the following if monitoring detects PFAS:

- If a PFAS is detected, it must be reported in the water system's annual consumer confidence report.
- If the detection exceeds **notification levels**, it must be reported to the water system's governing board and the State Board.
- If the detection exceeds **response levels**, the water system must take the source out of service immediately or notify its customers.

Shortly after Governor Newsom signed AB 756 into law in the summer of 2019, the State Board reduced the **notification levels** for PFOA and PFOS to 5.1 and 6.5 parts per trillion (ppt), respectively. Notification levels are not drinking water standards, but are instead precautionary health-based measures, above which water systems must notify their governing board and the State Board.

Then, in February 2020, the State Board reduced the **response levels** for PFOA and PFOS to 10 ppt and 40 ppt, respectively. Response levels are advisory levels above which the State Board's Division of Drinking Water recommends taking a water source out of service. AB 756 now requires that public water systems choose between taking that water source out of service

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or notifying its customers when a PFAS detection exceeds a response level. The following table summarizes these current notification and response levels:

PFAS COMPOUND	NOTIFICATION LEVEL	RESPONSE LEVEL
Perfluorooctanoic acid (PFOA)	5.1 ppt	10 ppt
Perfluorooctanesulfonic acid (PFOS)	6.5 ppt	40 ppt

Response levels are coupled with notification levels for contaminants that the State Board is considering establishing a maximum contaminant level (MCL). The State Board has requested that OEHHA develop public health goals for PFOA and PFOS. Public health goals, or PHGs, identify concentration levels of contaminants in drinking water below which no significant acute or chronic health risk is anticipated. Once OEHHA develops a public health goal, the State Board may rely on it as the foundation for an MCL based on risk to human health.

These regulatory developments have had a significant and immediate effect on water agencies throughout California. For example, the State Board's reduction of the PFAS response level triggered the closure of wells throughout California, including an additional thirty-three drinking water wells in Orange County alone. Effects like this may grow in frequency and severity as further testing reveals the ubiquity of PFAS throughout California. Water agencies, thus, should remain vigilant as the regulatory landscape evolves.

Please [contact our water law attorneys](#) with any questions about how these regulatory developments may affect you.

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