



State Water Board Imposes Stricter Response Levels for PFOA and PFOS

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On February 6, 2020, the California State Water Resources Control Board lowered the response levels (RLs) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), two of the most common compounds in the family of chemicals known as per- and poly-fluoroalkyl substances (PFAS). The new RLs are set at 10 parts per trillion (ppt) for PFOA and 40 ppt for PFOS, down from the previous RL of 70 ppt for the combined concentration of the two compounds.

This Board action follows the new regulatory requirements in California for PFAS that became effective on January 1, 2020 under Assembly Bill 756 (2019). Under this new framework, the Board has broad authority to order public water systems in the State to test for PFAS, including PFOA and PFOS. If testing reveals a confirmed detection exceeding the RLs for PFOA or PFOS and immediate treatment is not possible, the water provider must take the system out of service or provide public notification within 30 days of the confirmed detection.

The Board's decision follows its announcement in August 2019 to reduce the notification levels (NLs) for the same contaminants from 15 to 5.1 ppt for PFOA, and from 13 to 6.5 ppt for PFOS. A confirmed detection of an exceedance of the NLs requires the public water system to notify its governing body and certain local agencies served by that system. The Board's guidelines for testing and reporting PFOA and PFOS also encourage water agencies to notify customers and the Division of Drinking Water.

Both the new RLs and NLs are based on health recommendations from the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA), and are part of the Board's on-going efforts to investigate the extent of PFOA and PFOS contamination in the State's water systems and groundwater. Through its investigation, seven other PFAS chemicals have been detected in California wells. While the Board has not announced any new testing or notification requirements in connection with those chemicals at this time, it is seeking recommendations from the OEHHA to develop

NLs for them.

Additionally, the Board has recently stated its goal to ultimately establish maximum contaminant levels (MCLs) for PFOA and PFAS, and has asked OEHHA to promulgate public health goals (PHGs) for those compounds as the next step towards that goal.

Nossaman attorneys are available to answer questions regarding the Board's PFOA and PFOS RLs, new requirements under Assembly Bill 756, or other questions about the rapidly evolving regulatory framework around PFAS.