Date of Hearing: April 8th, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
Damon Connolly, Chair
AB 794 (Gabriel) – As Introduced February 18, 2025

SUBJECT: California Safe Drinking Water Act: emergency regulations

SUMMARY: Requires, on or before January 1, 2026, the State Water Resources Control Board (State Water Board) to adopt an emergency regulation and initiate a primary drinking water standard for the perfluoroalkyl and polyfluoroalkyl substances (PFAS) covered by a specified page, number, and volume of the Federal Register, in a manner that is consistent with existing law. Specifically, **this bill**:

1) Authorizes the State Water Board to adopt as an emergency regulation, a regulation that is not more stringent than, and is not materially different in substance and effect than, the requirements of a regulation promulgated pursuant to the federal Safe Drinking Water Act (SDWA).

2) Provides that the authority of the State Water Board to adopt an emergency regulation under this bill includes the authority to adopt requirements of a federal regulation promulgated pursuant to the federal SDWA that is in effect when the State Water Board adopts the emergency regulation, and the authority to adopt requirements of a federal regulation that was in effect on January 19, 2025, regardless of whether the requirements were repealed or amended to be less stringent.

3) Provides that an emergency regulation adopted pursuant to this bill shall not implement less stringent drinking water standards than the requirements of a federal regulation that was in effect on January 19, 2025, and may include requirements that are more stringent than the requirements of the federal regulation to the extent those more stringent requirements are not materially different in substance and effect from the requirements of existing state law or regulations.

4) Provides that the adoption of a regulation pursuant to this bill is an emergency and shall be considered by the Office of Administrative Law (OAL) as necessary for the immediate preservation of the public peace, health, safety, and general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code. Additionally, provides, that an emergency regulation adopted by the State Water Board pursuant to this bill is exempted from a state requirement that it describe facts showing the need for immediate action and is not subject to review by OAL and shall remain in effect until revised by the State Water Board or the implementation of a primary drinking water standard.

5) Requires the Office of Environmental Health Hazard Assessment (OEHHA), upon the adoption of an emergency regulation pursuant to this bill, to initiate proceedings to establish a public health goal (PHG) for any contaminant included in the emergency regulation that does not have a PHG.

6) Requires the State Water Board, upon the adoption of an emergency regulation pursuant to this bill, to initiate proceedings to establish primary drinking water standards for all the contaminants included in the emergency regulation that have a public health goal. Requires

the State Water Board, if a contaminant included in the emergency regulation does not have a PHG, to initiate proceedings to establish a primary drinking water standard as soon as a PHG is established for the contaminant.

7) Requires, on or before January 1, 2026, the State Water Board to adopt an emergency regulation and initiate a primary drinking water standard for PFAS covered by page 32532 in Number 82 of Volume 89 of the Federal Register in a manner that is consistent with existing law.

EXISTING LAW:

1) Authorizes, pursuant to the federal SDWA, the United States Environmental Protection Agency (US EPA) to set standards for drinking water quality and to oversee the states, localities, and water suppliers that implement those standards. (42 United States Code (USC) § 300(f), et seq.)

2) Establishes the California SDWA and requires the State Water Board to maintain a drinking water program. (Health and Safety Code (HSC) § 116270, et seq.)

3) Defines, under the California SDWA, "primary drinking water standards" to mean:

   a) Maximum Contaminant Levels (MCLs) that may have an adverse effect on human health;

   b) Specific treatment techniques adopted by the State Water Board in lieu of MCLs; or,

   c) The monitoring and reporting requirements specified in regulations, adopted by the State Water Board, that pertain to MCLs. (HSC § 116275(c))

4) Requires OEHHA to prepare and publish an assessment of the risks to public health posed by each contaminant for which the State Water Board proposes a primary drinking water standard, as provided. (HSC § 116365, et seq.)

5) Requires the risk assessment, prepared by OEHHA, to contain an estimate of the level of the contaminant in drinking water that is not anticipated to cause or contribute to adverse health effects, or that does not pose any significant risk to public health, also known as the PHG for the contaminant. (HSC § 116365, et seq.)

6) Requires the State Water Board to consider specified criteria when it adopts a primary drinking water standard, including the PHG for the contaminant published by OEHHA. (HSC § 116365, et seq.)

7) Prohibits, commencing January 1, 2022, a manufacturer of class B firefighting foam from manufacturing, or knowingly selling, offering for sale, distributing for sale, or distributing for use, and a person from using, class B firefighting foam containing intentionally added PFAS chemicals. (HSC § 13061(b)(1))

8) Prohibits, on and after July 1, 2023, a person, including, but not limited to, a manufacturer, from selling or distributing in commerce in this state any new, not previously owned,

juvenile product, as defined, that contains intentionally added PFAS or PFAS at or above 100 ppm, as measured in total organic fluorine. (HSC § 108946)

9) Prohibits, on or after January 1, 2025, a person from manufacturing, distributing, selling, or offering for sale in the state any new, not previously used, textile articles that contain intentionally added PFAS, or PFAS at or above 100 ppm, and on or after January 1, 2027, 50 ppm, as measured in total organic fluorine. (HSC § 108971)

10) Prohibits, commencing January 1, 2025, a person or entity from manufacturing, selling, delivering, holding, or offering for sale, in commerce any cosmetic product that contains any specified intentionally added ingredients, including some PFAS chemicals. (HSC § 108980 (a))

11) Prohibits, commencing January 1, 2025, a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains intentionally added PFAS. (HSC § 108981.5)

12) Prohibits, commencing January 1, 2023, a person from distributing, selling, or offering for sale in the state any food packaging that contains intentionally added PFAS or PFAS at or above 100 ppm, as measured in total organic fluorine. (HSC § 109000)

13) Authorizes the State Water Board to order a public water system to monitor for PFAS; requires community water systems to report detections; and, where a detected level of these substances exceeds the response level, to take a water source out of use or provide a prescribed public notification. (HSC § 116378)

14) Declares that it is the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Water Code § 106.3)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, "Californians shouldn't have to worry that their drinking water has been contaminated by toxic forever chemicals linked to deadly cancers and other serious health harms. Parents shouldn't have to worry that the water coming out of the tap will harm them or their kids. Californians deserve to feel confident that their drinking water is free from toxic chemicals."

Human right to water: Through enactment of AB 685 (Eng, Chapter 524, Statutes of 2012), California became the first state with a Human Right to Water law. AB 685 establishes a state policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Water supply issues; contaminants; costs of treatment and distribution systems; climate change; the number and nature of small public water systems, especially in disadvantaged communities; and many other factors continue to challenge progress in implementing the Human Right to Water.

Perfluoroalkyl and polyfluoroalkyl substances (PFAS): PFAS are synthetic, highly fluorinated substances that have been widely used in industrial and consumer applications for their heat, water, and lipid resistance properties for more than seven decades. In consumer products, PFAS are used in carpets, furniture fabrics, apparel, paper packaging for food, non-stick cookware, personal care products, and other products designed to be waterproof; grease, heat, water and stain resistant; or, non-stick. Commercial applications span many sectors of the economy, including aerospace, automotive, building and construction, pharmaceuticals, medical devices, paints, electronics, semiconductors, energy, oil and gas exploration, first responder safety, firefighting foams, and health care. During production, use, and disposal, PFAS can migrate into the soil, water, and air. Some PFAS are volatile, and can be carried long distances through the air, leading to contamination of soils and groundwater far from the emission source. Researchers have found PFAS in indoor and outdoor environments, plants, soil, food, drinking water, wildlife, companion animals, production animals, and humans at locations across the nation and around the globe. PFAS are extremely persistent and degrade very slowly over time, which has resulted in their accumulation in the environment since the onset of their production in the late 1940s. Currently, nearly 15,000 PFAS chemicals are included in the chemicals database CompTox, which is maintained by the US EPA.

Exposure to PFAS: The main route of exposure to PFAS is through ingestion of contaminated food or liquid (accounting for up to half of total exposure), contact with consumer products, and inhalation and ingestion of contaminated indoor air and dust. Food can become contaminated with PFAS through soil and water used to grow the food, food packaging containing PFAS, and equipment that uses PFAS during processing. Some foods, such as fish, meat, eggs, and leafy vegetables, may contain PFAS due to bioaccumulation and crop uptake. Studies have shown that PFAS can transfer from pregnant mothers to their fetuses via the placenta during gestation, as well from nursing mothers to their infants via breastfeeding. Dermal exposure is also possible when people touch products treated with PFAS, such as carpets or clothing. Young children may be exposed to higher levels of PFAS than adults because they ingest more dust containing PFAS and mouth PFAS-treated consumer products. Workers, such as carpet installers, carpet cleaners, firefighters, and workers in furniture, furnishings, outdoor clothing, and carpet stores, may also experience above average PFAS exposure levels.

Exposure to PFAS in drinking water is an escalating concern due to the persistence of PFAS chemicals in the environment and their tendency to accumulate in groundwater. Groundwater PFAS contamination typically has been associated with industrial facilities where these chemicals were manufactured or are used in other products, and in airfields where the chemicals have been used for firefighting. PFAS chemicals can also enter the environment and drinking water through composting, landfilling, recycling, and incineration of products containing PFAS. The State Water Board indicates that the four major sources of PFAS in drinking water in California are fire training/fire response sites, industrial sites, landfills, and wastewater treatment plants/biosolids. The State Water Board notes that because of their presence and persistence in many drinking water supplies, PFAS remain a serious source of exposure decades after their release into the environment.

Like humans, wildlife is exposed to PFAS by consuming contaminated water or food. Within aquatic food webs, PFAS are found to increase in concentration from ambient water to plankton and further up the food chain.

Hazard traits of PFAS: According to the Department of Toxic Substances Control (DTSC), all PFAS display at least one of the hazard traits identified in California's Safer Consumer Products (Green Chemistry) Hazard Traits Regulations (22 California Code of Regulations § 69401, et seq.). An intrinsic property of PFAS is the extreme environmental persistence of either the individual compounds or their degradation products or both, resulting in their classification as "forever chemicals." Most PFAS are mobile in environmental media such as air and water, and thus are widespread in living organisms and the environment.

Scientific studies have shown that exposure to some PFAS can lead to adverse health outcomes in humans and animals. DTSC states that if humans are exposed to PFAS through diet, drinking water, or inhalation, some of these chemicals remain in the body for a long time. As people continue to be exposed to PFAS, the PFAS levels in their bodies may increase to the point that they suffer adverse health effects. According to the US EPA, current peer-reviewed scientific studies have shown that exposure to certain levels of PFAS may lead to: reproductive effects such as decreased fertility or increased high blood pressure in pregnant women; developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes; increased risk of some cancers, including prostate, kidney, and testicular cancers; reduced ability of the body's immune system to fight infections, including reduced vaccine response; interference with the body's natural hormones; and, increased cholesterol levels and/or risk of obesity. In addition to direct human health impacts, some PFAS, may have high global warming potential. Also, several PFAS bioaccumulate significantly in animals or plants and emerging evidence points to their phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity.

California's general approach to regulating water quality: With a growing population of more than 39 million people, a limited supply of fresh water, and a range of impacts on both terrestrial and marine habitats and resources, the protection of water for beneficial uses is of paramount concern for all Californians. Water quality is a concern for all bodies of freshwater, both surface water and groundwater, and can be impacted by a variety of chemical and biological factors that are regulated by a number of local, state, and federal agencies.

In California, the state manages contaminants with negative health implications using a regulatory process that typically begins with the development of a PHG and ends with the establishment, implementation, and enforcement of a primary MCL. A PHG is the concentration of a contaminant in drinking water that is estimated to pose no significant health risk to individuals consuming the water on a daily basis over a lifetime. OEHHA scientists perform extensive reviews of the available literature on a drinking water contaminant to set PHGs based on the most sensitive health effects. The final PHG values then serve as guideposts to the State Water Board in setting a primary MCL. A drinking water contaminant's MCL must be established at a level as close to its PHG as is technologically and economically feasible. While primary MCLs place emphasis on public health, they must also account for factors such as detectability, treatability, and cost of treatment. Once the State Water Board establishes an MCL through the regulatory process, public water systems must meet it within the prescribed compliance period, though the State Water Board is not required to provide such a compliance period upon adoption of an MCL.

Federal and state regulation of contaminants in drinking water: To regulate drinking water contaminants that pose significant health risks, the State Water Board can begin the process by requesting that OEHHA establish a PHG. PHGs are concentrations of drinking water

contaminants that pose no significant health risk if consumed for a lifetime, based on current risk assessment principles, practices, and methods. OEHHA can establish PHGs for contaminants regulated under existing drinking water standards (also called MCLs), and for contaminants that do not yet, but may in the future, have MCLs.

PHGs are not regulatory standards. However, state law requires the State Water Board to set MCLs for contaminants as close to the corresponding PHG as is economically and technologically feasible. To establish a PHG, OEHHA scientists first compile all relevant scientific information available, which includes studies of the chemical's effects on laboratory animals and studies of humans who have been exposed to the chemical. The scientists use data from these studies to perform a health risk assessment, in which they determine the levels of the contaminant in drinking water that could be associated with various adverse health effects. When calculating a PHG, OEHHA uses all the information it has compiled to identify the level of the chemical in drinking water that would not cause significant adverse health effects in people who drink that water every day for 70 years. OEHHA must also consider any evidence of immediate and severe health effects when setting the PHG.

Once OEHHA establishes a PHG, the State Water Board determines whether an MCL (or an updated MCL) should be considered. If the State Water Board determines that an MCL should be considered, it then conducts an in-depth risk management analysis and, if appropriate, initiates the regulatory process for adopting an MCL, enforceable under the California SDWA.

Similarly, under the federal SDWA, the US EPA can establish national primary drinking water regulations, which are legally enforceable standards and treatment techniques that apply to public water systems. These standards are established to protect public health by limiting the levels of contaminants in drinking water. Like most states, California has been granted "primacy" by the US EPA, which grants the State Water Board the authority to implement and enforce the federal SDWA, including national primary drinking water regulations, at the state level. For the State Water Board to maintain its primacy authority, California must have statutes, regulations, and an implementation program for public water system supervision that are no less stringent than those under the federal SDWA.

Recently adopted federal MCLs for PFAS compounds: On April 10, 2024, the US EPA announced its final "National Primary Drinking Water Regulation" for six PFAS, establishing legally enforceable MCLs. The PFAS compounds that are now subject to regulation as drinking water contaminants under the US EPA's MCLs are PFOA, PFOS, PFHxS, PFNA, and HFPO-DA (commonly known as GenX) The regulation will require public water systems to monitor for these PFAS, notify the public of the levels of these PFAS, and reduce the levels of these PFAS in drinking water if they exceed the standards.

The timeline for rule implementation provided by US EPA is as follows:

- Within three years of rule promulgation (2024 - 2027):
    - Initial monitoring must be complete
- Starting three years following rule promulgation (2027 - 2029):
    - Results of initial monitoring must be included in Consumer Confidence Reports (i.e., Annual Water Quality Report)

  - Regular monitoring for compliance must begin, and results of compliance monitoring must be included in Consumer Confidence Reports
  - Public notification for monitoring and testing violations
- Starting five years following rule promulgation (starting 2029):
  - Comply with all MCLs
  - Public notification for MCL violations

On April 5, 2024, OEHHA adopted PHGs for two PFAS: PFOA and PFOS. The PHG for PFOA is 0.007 nanograms per liter (ng/L) or parts per trillion (ppt). The PHG for PFOS is 1 ng/L or ppt. As of the writing of this analysis, the State Water Board had not yet initiated a regulatory process to develop MCLs based on these PHGs.

Monitoring for PFAS in California: Assembly Bill 756 (C. Garcia, Chapter 162, Statutes of 2019), authorized the State Water Board to issue orders requiring public water systems to monitor for PFAS. Since 2020, the State Water Board has issued several general monitoring orders to public water systems in California. It is required by HSC §116378 that if monitoring results in a confirmed detection, then a water system must report that detection in the annual Consumer Confidence Report.

Executive action by President Trump regarding federal regulations: On February 19, 2025, President Trump signed the Executive Order, "Ensuring Lawful Governance and Implementing the President's Department of Governor Efficiency Deregulatory Initiative." An excerpt from the Executive Order states:

> "Purpose. It is the policy of my Administration to focus the executive branch's limited enforcement resources on regulations squarely authorized by constitutional Federal statutes, and to commence the deconstruction of the overbearing and burdensome administrative state. Ending Federal overreach and restoring the constitutional separation of powers is a priority of my Administration.
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> Rescinding Unlawful Regulations and Regulations That Undermine the National Interest. (a) Agency heads shall, in coordination with their DOGE Team Leads and the Director of the Office of Management and Budget, initiate a process to review all regulations subject to their sole or joint jurisdiction for consistency with law and Administration policy. Within 60 days of the date of this order, agency heads shall, in consultation with the Attorney General as appropriate, identify the following classes of regulations:
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> (i) unconstitutional regulations and regulations that raise serious constitutional difficulties, such as exceeding the scope of the power vested in the Federal Government by the Constitution;
> (ii) regulations that are based on unlawful delegations of legislative power;
> (iii) regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition;
> (iv) regulations that implicate matters of social, political, or economic significance that are not authorized by clear statutory authority;
> (v) regulations that impose significant costs upon private parties that are not outweighed by public benefits;

(vi) regulations that harm the national interest by significantly and unjustifiably impeding technological innovation, infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives; and
(vii) regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship.
(b) In conducting the review required by subsection (a) of this section, agencies shall prioritize review of those rules that satisfy the definition of "significant regulatory action" in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), as amended.
(c) Within 60 days of the date of this order, agency heads shall provide to the Administrator of the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget a list of all regulations identified by class as listed in subsection (a) of this section.
(d) The Administrator of OIRA shall consult with agency heads to develop a Unified Regulatory Agenda that seeks to rescind or modify these regulations, as appropriate.

Enforcement Discretion to Ensure Lawful Governance. (a) Subject to their paramount obligation to discharge their legal obligations, protect public safety, and advance the national interest, agencies shall preserve their limited enforcement resources by generally de-prioritizing actions to enforce regulations that are based on anything other than the best reading of a statute and de-prioritizing actions to enforce regulations that go beyond the powers vested in the Federal Government by the Constitution.

(b) Agency heads shall determine whether ongoing enforcement of any regulations identified in their regulatory review is compliant with law and Administration policy. To preserve resources and ensure lawful enforcement, agency heads, in consultation with the Director of the Office of Management and Budget, shall, on a case-by-case basis and as appropriate and consistent with applicable law, then direct the termination of all such enforcement proceedings that do not comply with the Constitution, laws, or Administration policy."

As of the writing of this analysis, the Trump Administration has taken approximately 150 or so executive actions. It is unclear how the executive action listed above or any other current or future executive action could interfere with, impede, or otherwise repeal the federal drinking water standard for PFAS. If anything is clear, it is that the bulk of these executive actions have resulted in a lack of clarity with respect to any current federal law or regulation. What is here today may be gone or diluted tomorrow. For the PFAS MCLs, this uncertainty has the potential to create confusion among water systems and regulators about implementing federal regulations that may, or may not, be in place in the near or distant future. If the state and water systems move forward on implementing the MCLs, only to find that in the coming months or years that these MCLs have been eliminated—using federal mechanisms, such as Executive Orders, in ways that are not fully understood at this time—there is significant potential for "regulatory whiplash," in which the state and regulated entities find that their work towards compliance with the federal regulations must grind to halt. This could result in wasted resources, including lost time and effort spent trying to comply with the federal standards and address the serious issue of PFAS contamination. *AB 794 could provide consistency and clarity to water systems and regulators that help minimize the detrimental effects of this regulatory whiplash.*

The policy question: Should the legislature grant the State Water Board authority to adopt drinking water standards through emergency regulation authority? Existing law, AB 1531 (ESTM Committee, Chapter 673, Statues of 2015), authorizes the State Water Board to adopt an emergency regulation that is not more stringent than the requirements of a federal regulation under the federal SDWA, except for a regulation that establishes a MCL for primary or secondary drinking water standards.

This bill: Requires the State Water Board to adopt, via an emergency regulation, the federal drinking water standard for PFAS that the US EPA adopted in 2024.

A delay in PFAS regulation in drinking water: If this bill were not enacted and the federal PFAS MCLs were delayed, weakened, or altogether removed by the federal Administration, movement towards regulating these PFAS chemicals, at levels at least as stringent as the current federal standards, would require the state to take action via its own regulatory process. As described above, OEHHA would need to complete PHGs, followed by the adoption of MCLs by the State Water Board. Of the six PFAS compounds regulated under the federal MCLs, OEHHA has only adopted PHGs for two of them. The Water Board could move ahead with MCLs for these two PFAS compounds, a process that could take at least a year or two. For the other four PFAS compounds currently covered under the federal MCLs, OEHHA would need to begin and complete PHGs, at which point the State Water Board could then adopt MCLs. In sum, should the federal MCLs "disappear," it could be years before there are state MCLs on all six of these PFAS. In the meantime, the well-documented negative human health and environmental impacts of PFAS—which the Legislature has worked to address through multiple enacted laws banning or restricting PFAS in various consumer products—will likely continue to compound.

Potential clarification amendments: The author may wish to amend the bill to clarify that the emergency regulation authority being granted by AB 794 is specific to the recent US EPA drinking water standard for the six PFAS. Additionally, there is some confusion within the language about whether or not the emergency regulation for the PFAS MCL being authorized by this bill could be more stringent than the federal PFAS MCL – the author may wish to clarify this as well.

Arguments in Support: According to a coalition of environmental, public health, and community based organizations,

> "The diverse organizations signed onto this letter deeply understand that clean, safe drinking water is both necessary to life and a human right. For that reason, we are pleased to express our strong support for AB 794 (Gabriel), which will ensure that Californians are protected from dangerous per- and polyfluoroalkyl substances (PFAS) in their drinking water regardless of actions or policy changes at the federal level. Specifically the bill directs the State Water Resources Control Board (SWRCB) to adopt on or before January 1, 2026, emergency regulations for PFAS in drinking water that mirror the federal regulations in place on January 19, 2025. The bill then directs the SWRCB and Office of Environmental Health Hazard Assessment (OEHHA) to ensure that PFAS are ultimately reviewed with state public health assessments and regulated in drinking water at the most protective level possible.
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> AB 794's purpose is to protect Californians from PFAS given the assaults on environmental regulations at the federal level. The U.S. Environmental Protection Agency (EPA) has determined that there are no safe levels of PFOA and PFOS in drinking water (two of the

most common PFAS found in water) and that other PFAS health levels are extremely low at 10 parts per trillion (ppt). As a result, EPA set enforceable federal limits, known as maximum contaminant levels (MCLs), for six PFAS in drinking water in 2024 which reflect the significant danger these chemicals pose to the public. This is good news because unlike eleven other states California has yet to regulate these chemicals in drinking water despite rigorous monitoring and study.

Under the federal rules, California may establish standards more protective than EPA's, but it is a lengthy process, and the process to protect Californians from PFAS exposure in drinking water could be delayed even further if the new Administration weakens or rescinds the federal MCLs. In addition to the anti-regulation culture now prevalent in Washington, lawsuits to overturn the MCLs have been filed by associations representing the chemical and manufacturing industries and some water providers, putting those federal limits at risk. If federal PFAS limits are weakened or rolled back under the Trump Administration, millions of Californians will be at continued risk and legal actions to hold PFAS manufacturers accountable for the pollution their chemicals have caused could be impeded. AB 794 ensures that Californians will quickly receive protections equal to the current federal limits, and leaves the SWRCB and OEHHA discretion to go further as needed."

Arguments in Opposition: According to the California Municipal Utilities Association,

"AB 794 seeks to strike an important limitation in Health and Safety Code section 11635.03 which specifically states that regulations that establish a maximum contaminant level (MCL) are not to be adopted through emergency regulation authority. That section is replaced by AB 794's proposal to give the State Water Board authority to adopt federal regulations as state standards through emergency regulations regardless of whether those requirements were repealed or amended to be less stringent. This authority is not limited only to PFAS but is broadly applicable to any constituent with a federal standard. The bill also allows the emergency regulation to implement drinking water standards that are *more* stringent than the requirements of the federal regulation. The bill further states that emergency regulation authority in this section bypasses the Office of Administrative Law review and environmental review under the California Environmental Quality Act (CEQA). Lastly, the bill requires that the State Water Board adopt the emergency regulation and initiate a primary drinking water standard for PFAS by January 1, 2026.

In discussions with the author's office and sponsors, we understand the intent of this bill is to ensure the State Water Board can adopt the federal drinking water standard for PFAS, assuming that the federal standard might change. If the bill's intent is solely to address PFAS, it need not include expanded emergency regulation authority for other drinking water standards.

AB 794 allows emergency regulations to be adopted that are *more* stringent than the federal standard. There is no clear reason for a *more* stringent standard to bypass the established adoption process through the Administrative Procedures Act. Nor is there sufficient justification for a *more* stringent standard to bypass environmental review.

CMUA notes that the author and sponsor's intent is to preserve the federal standards adopted for PFAS in light of a new federal administration and ongoing litigation. It has been this branch's posture to let the judicial process run its course. Beyond that, the concern iterated

by the sponsors is that PFAS treatment would be discontinued without the federal floor as is. As mentioned earlier, CMUA's members have invested millions to treat PFAS. Regardless of what happens at the federal level, public water and wastewater agencies treating PFAS will continue with their treatment projects and are held to notification and response levels that have been established in state law. It would be counterproductive for any PFAS treatment efforts to cease simply because we have a new administration."

Related legislation:

1) AB 2515 (Papan, Chapter 1008, Statutes of 2024). Prohibits a person from manufacturing, distributing, selling, or offering for sale a menstrual product that contains regulated PFAS.

2) AB 2761 (Hart, 2024). Prohibits, beginning January 1, 2026, the sale, use, and manufacture of plastic packaging that contains PFAS or polyvinyl chloride (PVC), inclusive of polyvinylidene chloride (PVDC). This bill was held in the Senate Environmental Quality Committee.

3) SB 903 (Skinner, 2024). Prohibits, commencing January 1, 2030, a person from distributing, selling, or offering for sale in the state a product that contains intentionally PFAS. Authorizes DTSC to establish regulations to administer the prohibition. This bill was held on the suspense file in the Senate Appropriations Committee.

4) AB 347 (Ting, Chapter 932, Statutes of 2024). Requires DTSC to take a number of actions regarding implementation of existing laws dealing with PFAS in food packaging and cookware, including adopting and publishing guidance and testing products.

5) AB 246 (Papan, 2023). Would have prohibited, commencing January 1, 2025, a person from manufacturing, distributing, selling, or offering for sale in the state menstrual products that contain PFAS at or above 10 ppm. This bill was vetoed by Governor Gavin Newsom.

6) AB 727 (Weber, 2023). Would have prohibited, beginning January 1, 2025, a person from manufacturing, selling, delivering, distributing, holding, or offering for sale, a cleaning product that contains intentionally-added PFAS or PFAS at or above 50 ppm, and on January 1, 2027, a cleaning product that contains PFAS at or above 25 ppm. This bill was vetoed by Governor Gavin Newsom.

7) AB 1423 (Schiavo, 2023). Would have prohibited, commencing January 1, 2025, a person or entity from manufacturing, distributing, selling, or offering for sale in the state any covered surface that contains PFAS at or above 20 ppm, and, commencing January 1, 2024, a public entity, a public or private school, or a public or private institution of higher learning, as specified, from purchasing or installing a covered surface that contains PFAS at or above 20 ppm. This bill was vetoed by Governor Gavin Newsom.

8) AB 1817 (Ting, Chapter 762, Statutes of 2022). Prohibits, beginning January 1, 2024, a person from distributing, selling, or offering for sale in the state a textile article, as defined,

that contains regulated PFAS, and requires a manufacturer to use the least toxic alternative when removing regulated PFAS in textile articles to comply with the provisions of the bill.

9) AB 2771 (Friedman, Chapter 804, Statutes of 2022). Prohibits, commencing January 1, 2025, a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains intentionally added PFAS.

10) AB 1200 (Ting, Chapter 503, Statutes of 2021). Prohibits, commencing January 1, 2023, the sale of food packaging that contains PFAS; requires, commencing January 1, 2024, cookware manufacturers to label their product if it contains an intentionally added chemical on specified lists; and prohibits, commencing January 1, 2023, for the internet and January 1, 2024, for the cookware package, a cookware manufacturer from making a claim that cookware is free of a chemical, unless no chemical from that chemical class is intentionally added to the cookware.

11) AB 652 (Freidman, Chapter 500, Statutes of 2021). Prohibits, on or after July 1, 2023, a person from selling or distributing in commerce any new juvenile products that contain PFAS.

12) SB 1044 (Allen, Chapter 308, Statutes of 2020). Prohibits the manufacture, sale, distribution, and use of firefighting foam containing PFAS chemicals by January 1, 2022, with some exceptions, and requires notification of the presence of PFAS in the protective equipment of firefighters.

13) SB 1056 (Portantino, 2020). Would have required the State Water Board to establish an analytical laboratory method that can be used as a tool to assess the extent of PFAS contamination in drinking water, surface water, groundwater, and wastewater. This bill was held in the Senate Environmental Quality Committee.

14) AB 756 (C. Garcia, Chapter 162, Statutes of 2019). Authorizes the State Water Board to order one or more public water systems to monitor for PFAS and requires municipalities to notify consumers when PFAS are detected above notification levels.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Humboldt
7th Generation Advisors
A Voice for Choice Advocacy
Active San Gabriel Valley
American College of Obstetricians and Gynecologists
Beyond Pesticides
Breast Cancer Prevention Partners

California Coastkeeper Alliance
California Environmental Voters
California Nurses for Environmental Health and Justice
California River Watch
CALPIRG
Center for Community Action and Environmental Justice
Center for Environmental Health
Center for Public Environmental Oversight
Ceres Community Project
Children Now
Children's Environmental Health Network
Clean Air Coalition of North Whittier and Avocado Heights
Clean Earth 4 Kids
Clean Water Action
Cleanearth4kids.org
Climate Action California
Community Water Center
Conscious Kitchen
Consumer Reports
Eco-sustainability Peeps
Environmental Health Trust
Environmental Defense Fund
Environmental Working Group
Erin Brockovich Foundation
Facts: Families Advocating for Chemical & Toxics Safety
Friends Committee on Legislation of California
Friends of The River
GMO Science
Green Science Policy Institute
Immaculate Heart Community Environmental Commission
Integrated Resource Management
Leadership Counsel for Justice and Accountability
Long Beach Alliance for Clean Energy
Los Angeles Waterkeeper
Mamavation - Non-toxic Products for Healthy Families
Moms Across America
National Resources Defense Council
Non Toxic Communities
Non-toxic Neighborhoods
North County Climate Change Alliance
North County Equity and Justice Coalition
Pesticide Action & Agroecology Network
Physicians for Social Responsibility - Los Angeles

Policy Link
Protect Our Watershed San Mateo County
Récolte Energy
Resource Renewal Institute
Russian Riverkeeper
Safety Nest
San Francisco Baykeeper
Save the Bay
Sierra Club California
Sisters of St. Joseph of Orange
SoCal 350 Climate Action
The Children's Partnership
The Story of Stuff Project
Turning Green

Opposition

Association of California Water Agencies
California Chamber of Commerce
League of California Cities
Regional Water Authority
WateReuse California
California Municipal Utilities Association
California-Nevada Section, American Water Works Association
Community Water Systems Alliance
Orange County Water District
Water Replenishment District of Southern California

Analysis Prepared by: Josh Tooker / E.S. & T.M. / (916) 319-3965