



August 26, 2021

Office of Environmental Health Hazard Assessment

Post Office Box 4010
Sacramento, CA 95812-4010

Dear Dr. Lauren Zeise, Ph.D:

**COMMENTS REGARDING OEHHA PUBLIC HEALTH GOAL PFOS/PFOA
NOTIFICATION LEVELS**

I am writing on behalf of the California Association of Mutual Water Companies ('CalMutuals') with comments related to the Office of Environmental Health Hazard Assessment's (OEHHA) release of public health goals (PHG) for PFOS and PFOA. CalMutuals is a statewide association providing advocacy as well as operational and educational resources for mutual water companies and other small water systems. CalMutuals represents over 300 water suppliers. Most are small community-owned not-for-profit water systems with fewer than 3,000 service connections. Our members are deeply committed to ensuring equitable access to water that is safe for all.

The substance of CalMutuals' comments address the regulatory framework that will lead to development of the final PHG for PFOS and PFOA. The current regulatory environment leading to OEHHA's proposed PHG is presenting unique challenges to our members given that the final PHG will likely be treated as enforceable standards by some agencies of the state. OEHHA's traditional responsibility is to set PHGs using the most current scientific research and data, without consideration of other limiting factors such as cost. In so doing, OEHHA is supposed to allow only for consideration of technical research with the aim of setting a PHG reflective of the best available technologies. In normal circumstances the State Water Resources Control Board would follow the adopted PHG in order to set a maximum contaminant level (MCL) which would be the enforceable standard as close to the final OEHHA PHG as possible.

In practice, passage of AB756 (C. Garcia) leaves water suppliers with no option but to treat response levels set by OEHHA as enforceable standards, similar to an MCL. The current ambiguity between a protective precautionary response level (RL) and enforceable standards (MCL) has created negative impacts for water suppliers as they have struggled to understand the regulatory guidelines and avoid being penalized for PFOS/PFOA by regulators as well as through public perception. The final PHGs themselves may be treated as enforceable standards by some state agencies, and not by others as you will learn in the following examples related to RLs.



In Southern California, the Division of Drinking Water (DDW) under the State Water Resources Control Board has refused to approve operating permits for some new water treatment systems if a supplier does not include treatment for PFAS in exceedence of the RL. Given the regulatory dissonance combined with the ambiguity of enforceable standards, one can see why a reasonable water system operator would trade their attention from other existing issues with their water supply towards the newly implemented PFAS monitoring and treatment requirements. In the meantime, the California Public Utilities Commission (CPUC) is not permitting investor-owned utilities to recover costs for PFAS treatment because a response level is legally not an enforceable standard.

We would like to note OEHHA's maintenance of the Human Right to Water ('HR2W') database housing contaminant information for impacted water systems statewide. OEHHA created the HR2W database in reaction to AB685 (Eng) to monitor progress in providing access to safe drinking water to all people of the state, increasing social equity. Yet the regulatory framework under which the PHG and RL for PFAS chemicals are being developed may create trade-offs leading to adverse health effects in DAC/SDAC communities; as well as public distrust in local water systems. This is why the net impact to public health caused by the proposed PHG should not be summarily dismissed.

While a final PHG may justifiably indicate a reduction of cancer risk from PFOS and PFOA, given the regulatory framework in play, other health risks may transpose themselves. For example, numerous studies by the Natural Resources Defense Council indicate that people of color and low-income communities already distrust tap water for drinking, preferring lesser regulated bottled water or vending machine sources. The regulatory confusion where some communities can afford to react to non-enforceable standards for PFOA and PFOS with treatment that others can not afford threatens to confirm distrust of public water systems. As a result of the reliance on bottled and vending machine drinking water, according to NRDC, such populations suffer from disproportionate rates of dental decay and gastrointestinal ailments. Bottled and vending machine sources of water are hundreds of times more expensive than utility provided water supplies, leading to choices that may impact other dietary practices as well that can impact public health in low-income communities of all types.

CalMutuals acknowledges that PFAS may be acutely and chronically damaging. We believe that the health impacts should be properly calibrated to prevent trade-offs created by flawed regulatory framework that works against itself. Such a regulatory framework perpetuates social inequality as it pushes disadvantaged communities to make decisions that may impact public health out of fear, not science.



Submitted,

A handwritten signature in black ink, appearing to read "Adan Ortega Jr.", with a small dot at the end.

Adan Ortega Jr.
Executive Director
California Association of Mutual Water Companies