

AMENDED IN ASSEMBLY APRIL 10, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 794

Introduced by Assembly Member Gabriel

February 18, 2025

An act to repeal and add Section 116365.03 of the Health and Safety Code, relating to safe drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 794, as amended, Gabriel. California Safe Drinking Water Act: emergency regulations.

Existing law, the California Safe Drinking Water Act (state act), requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. The state board's duties include, but are not limited to, enforcing the federal Safe Drinking Water Act (federal act) and adopting and enforcing regulations. Existing law authorizes the state 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 under the federal act, with a specified exception.

This bill would provide that the authority of the state board to adopt an emergency regulation pursuant to these provisions includes the authority to adopt requirements of a specified federal regulation that was in effect on January 19, 2025, regardless of whether the requirements were repealed or amended to be less stringent. The bill would prohibit an emergency regulation adopted pursuant to these provisions from implementing less stringent drinking water standards, as provided, and would authorize the regulation to include *monitoring*

requirements that are more stringent than the requirements of the federal regulation. *The bill would prohibit maximum contaminant levels and compliance dates for maximum contaminant levels adopted as part of an emergency regulation from being more stringent than the maximum contaminant levels and compliance dates of a regulation promulgated pursuant to the federal act.* The bill would require, on or before January 1, December 31, 2026, the state board to adopt an emergency regulation and to initiate a primary drinking water standard for perfluoroalkyl and polyfluoroalkyl substances, as provided. The bill would make other changes to proceedings initiated upon the adoption of an emergency regulation to establish a public health goal and primary drinking water standards, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 116365.03 of the Health and Safety Code
2 is repealed.

3 SEC. 2. Section 116365.03 is added to the Health and Safety
4 Code, to read:

5 116365.03. (a) The state board may adopt as an emergency
6 ~~regulation, regulation~~ a regulation that is not more stringent than,
7 and is not materially different in substance and effect than, than
8 the requirements of a regulation promulgated pursuant to the
9 federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.).

10 (b) The authority of the state board to adopt an emergency
11 regulation under this section includes the authority to adopt
12 requirements of a federal regulation promulgated pursuant to the
13 federal Safe Drinking Water Act that is in effect when the state
14 board adopts the emergency regulation and authority to adopt
15 requirements of a federal regulation that was in effect on January
16 19, 2025, regardless of whether the requirements were repealed
17 or amended to be less stringent.

18 (c) An emergency regulation adopted pursuant to this section
19 shall not implement less stringent drinking water standards than
20 the requirements of a federal regulation that was in effect on
21 January 19, 2025, and may include 2025. *Maximum contaminant
22 levels and compliance dates for those maximum contaminant levels
23 adopted as part of an emergency regulation shall not be more*

1 *stringent than the maximum contaminant levels and compliance*
2 *dates of a regulation promulgated pursuant to the federal Safe*
3 *Drinking Water Act. The emergency regulation may include*
4 *monitoring requirements that are more stringent than the*
5 *requirements of the federal regulation to the extent those more*
6 *stringent requirements are not materially different in substance*
7 *and effect from the requirements of this chapter or regulations*
8 *implementing this chapter.*

9 (d) The adoption of a regulation pursuant to this section is an
10 emergency and shall be considered by the Office of Administrative
11 Law as necessary for the immediate preservation of the public
12 peace, health, safety, and general welfare for purposes of Sections
13 11346.1 and 11349.6 of the Government Code. Notwithstanding
14 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
15 3 of Title 2 of the Government Code, an emergency regulation
16 adopted by the state board pursuant to this section is hereby
17 exempted from the requirement that it to describe facts showing
18 the need for immediate action and is not subject to review by the
19 Office of Administrative Law and shall remain in effect until
20 revised by the state board or the implementation of a primary
21 drinking water standard.

22 (e) The adoption of an emergency regulation pursuant to this
23 section is a Class 8 action, within the meaning of Section 15308
24 of Title 14 of the California Code of Regulations.

25 (f) Upon the adoption of an emergency regulation pursuant to
26 subdivision (b), the Office of Environmental Health Hazard
27 Assessment shall initiate proceedings to establish a public health
28 goal pursuant to subdivision (c) of Section 116365 for any
29 contaminant included in the emergency regulation that does not
30 have a public health goal.

31 (g) Upon the adoption of an emergency regulation pursuant to
32 subdivision (b), the state board shall initiate proceedings to
33 establish primary drinking water standards pursuant to subdivision
34 (a) of Section 116365 for all the contaminants included in the
35 emergency regulation that have a public health goal pursuant to
36 subdivision (c) of Section 116365. If a contaminant included in
37 the emergency regulation does not have a public health goal, then
38 the state board shall initiate proceedings to establish a primary
39 drinking water standard as soon as a public health goal is
40 established for the contaminant under paragraph (f).

1 (h) On or before ~~January 1, December 31~~, 2026, the state board
2 shall adopt an emergency regulation and shall initiate a primary
3 drinking water standard for the perfluoroalkyl and polyfluoroalkyl
4 substances covered by page 32532 in Number 82 of Volume 89
5 of the Federal Register in a manner that is consistent with this
6 chapter. *The timeline to comply with the emergency regulation*
7 *shall align with the federal regulation cited above.*

O