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## State Water Resources Control Board

# WATER CODE SECTION 13267 ORDER FOR THE DETERMINATION OF THE PRESENCE OF PER- AND POLYFLUOROALKYL SUBSTANCES

## ORDER WQ 2019-0006-DWQ

Pursuant to Water Code section 13267, The State Water Resources Control Board (State Water Board) requires you to submit information as described below. Failure to comply with this Order may subject you to civil liability of up to \$5,000 per day for each day in which the violation occurs.

Your site is identified in **Attachment 1** as a facility that has accepted, stored, or used materials that may contain per- and polyfluoroalkyl substances (PFAS). Therefore, you are required to submit the information in **Attachment 2** to the appropriate Regional Water Quality Control Board (Regional Water Board) identified in the cover letter.

### I. BACKGROUND

#### A. WHAT ARE PFAS?

PFAS is a family of more than 3,000 man-made and mostly unregulated chemicals that have been produced since the mid-1900s. They are mobile, persistent, and bioaccumulative. They are resistant to degradation in the environment and when degradation occurs, it often results in the formation of other PFAS compounds. The PFAS compounds have very different physical and chemical properties. Currently the key classes of concern are perfluoroalkyl sulfonic acids such as the long-chain, more commonly known PFAS, perfluorooctanesulfonate (PFOS) and perfluorooctanoic acid (PFOA).

PFAS are manufactured globally and have been used in the production of a wide range of industrial and household products. PFAS are found in many products such as dental floss, non-stick cookware, food packaging materials, non-stick products (e.g., Teflon™), waterproof and water repellent textiles, water repellent furniture, carpet, polishes, waxes, paints, cleaning products, medical garments, and fire-fighting foams (Aqueous Film-Forming Foams or AFFF). PFAS are used in the Aerospace, Automotive, Chemical, Electronics, Metal Coatings and Plating, and Textiles industries due to their friction-reducing characteristics. Potential firefighting sources of PFAS include airports

and aviation facilities, military bases and training centers, petroleum refineries and terminals, and petrochemical production facilities. Non-industrial PFAS sources include Waste Disposal Facilities, Wastewater Treatment Plant Operations, and Biosolids Application to Agriculture. Secondary sources of PFAS include waste streams such as landfills and wastewater treatment plants. More information on PFAS chemicals can be found at United States Environmental Protection Agency (U.S. EPA) website at: <https://www.epa.gov/pfas>.

PFAS are extremely persistent in the environment and highly mobile in water. People are exposed to PFOS and PFOA through food, food packaging, consumer products, house dust, and drinking water. Since these chemicals have been used in an array of consumer products, scientists have found PFOA and PFOS in the blood of nearly all people tested. Exposure through drinking water has become an increasing concern due to the tendency of PFAS to accumulate in groundwater.

Based on the current available peer-reviewed studies on laboratory animals and epidemiological evidence in human populations, the U.S. EPA released the following statement:

*“These studies indicate that exposure to PFOA and PFOS over certain levels may result in adverse health effects, including developmental effects to fetuses during pregnancy or to breastfed infants (e.g., low birth weight, accelerated puberty, skeletal variations), cancer (e.g., testicular, kidney), liver effects (e.g., tissue damage), immune effects (e.g., antibody production and immunity), thyroid effects and other effects (e.g., cholesterol changes).”*

Please see U.S. EPA Technical Note for more information:

[https://www.epa.gov/sites/production/files/2017-12/documents/ffrrofactsheet\\_contaminants\\_pfos\\_pfoa\\_11-20-17\\_508\\_0.pdf](https://www.epa.gov/sites/production/files/2017-12/documents/ffrrofactsheet_contaminants_pfos_pfoa_11-20-17_508_0.pdf)

## **B. WHICH PFAS?**

We are interested in all PFAS that exist in the environment. Due to analytical limitations, the focus of this order is on 39 PFAS analytes including PFOA and PFOS listed in **Attachment 2**. The PFAS analyte list is not exhaustive but is intended to serve as a minimum requirement for sampling pursuant to this Order. Some laboratories may be capable of analyzing additional PFAS that are not included on the list.

## **C. WHY IS THIS ACTIVITY REQUIRED?**

The State Water Board and the Regional Water Boards are charged with the protection of the beneficial uses of water in California, including water used or intended for use as drinking water. If PFAS were used, or materials suspected of containing PFAS were disposed at your facility, technical reports are required to investigate the presence of PFAS. This is part of a statewide effort to determine whether the groundwater is impacted by PFAS and obtain a preliminary understanding of PFAS concentrations at facilities. The State Water Board intends to direct other dischargers identified as potential PFAS sources in the state to perform PFAS testing. The State Water Board and the Regional Water Boards will evaluate the data collected to make informed

decisions in implementing appropriate regulatory action, in anticipation of emerging regulatory standards for PFAS.

In May 2016, the United States Environmental Protection Agency (U.S. EPA) established Health Advisory Levels of 70 parts per trillion (ppt) (0.07 micrograms per liter ( $\mu\text{g/L}$ )) for PFOA and 70 ppt for PFOS. These concentrations are now considered a screening level. For more information on these advisories see U.S. EPA's website at: <https://www.epa.gov/ground-water-and-drinking-water/drinking-water-health-advisories-pfoa-and-pfos>.

Additionally, in July 2018, the State Water Board's Division of Drinking Water (DDW) issued drinking water notification levels for PFOS and PFOA at 13 ppt and 14 ppt, respectively, per recommendations from California's Office of Environmental Health Hazard Assessment (OEHHA). DDW requires a combined PFOS/PFOA response level of 70 ppt. More information on notification levels for PFAS compounds can be found at: [https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/PFOA\\_PFOS.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/PFOA_PFOS.html).

Water Code section 106.3 indicates it is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by directing investigations to determine the presence of PFAS in and near waters that could be used for drinking water purposes.

Additional justification supporting the need for the investigation is included in **Attachment 2**.

## **II. WATER CODE SECTION 13267 ORDER FOR TECHNICAL REPORTS**

Water Code section 13267(b), provides that "a regional board may require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region... or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of water within its region shall furnish, under penalty of perjury, technical or monitoring reports which the regional board requires... In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports."

Water Code section 13267(f) authorizes the State Water Board to require this information if it consults with the Regional Water Boards and determines that it will not duplicate the efforts of the Regional Water Boards. The State Water Board has consulted with the Regional Water Boards and made this determination. The release of PFAS into the environment or the disposal of wastes containing PFAS constitutes a discharge of waste as defined in Water Code section 13050(d).

Pursuant to this authority, **you are hereby ordered to submit technical reports identified in Attachment 2.** Additional information regarding requirements for submitting technical reports under Section 13267 of the Water Code is included as **Attachment 3.**

### **III. COST AND BENEFIT OF TECHNICAL REPORTS**

Water Code section 13267(b) specifies that the burden, including costs, of these reports must bear a reasonable relationship to the State Water Board's need for the reports and the benefits to be obtained from the reports.

The cost of the technical reports bears a reasonable relationship to the benefit to be gained because, in terms of public health and environmental harm, contamination of groundwater must be identified before corrective action can be taken, if appropriate.

### **IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The issuance of this Order is an action to protect the environment and is categorically exempt from the provisions of the California Environmental Quality Act pursuant to sections 15304 and 15308, Chapter 3, Title 14 of the California Code of Regulations.

### **V. PENALTIES**

Water Code section 13268 provides that failure to submit the required information by the specified compliance date, or falsifying any information provided therein, is a misdemeanor and may result in civil liability. Noncompliance may subject you to civil liability in the amount of up to \$5,000 for each day of violation. Please be advised that compliance with this Order is not a substitute for compliance with other applicable laws.

### **Perjury Statement**

Pursuant to Water Code section 13267(b)(1), the Water Board requires you to include the following perjury statement, signed by a duly authorized representative, in all reports submitted pursuant to this Order:

"I, [NAME], certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision, and the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant civil penalties for submitting false information."

March 20, 2019



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Date

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Eileen Sobek  
Executive Director

**ATTACHMENTS:**

**Attachment 1 - List of Facilities**

**Attachment 2 - Technical Report Requirements & Questionnaire**

**Attachment 3 - Fact Sheet – Requirements for Submitting Technical Reports  
under Section 13267 of the Water Code**