

New Statute Alert A.B. 2528: "Action Level" Is Replaced By Two New Regulatory Concepts

September 30, 2004

Hatch & Parent's Environmental Quality Group has been monitoring an important change in state law that will affect water wholesalers and retailers throughout California.

On September 22, 2004, Governor Schwarzenegger signed A.B. 2528 into Law. With this bill are the creation of two new terms, "Notification Level" and "Response level".

On September 22, 2004, Governor Schwarzenegger signed A.B. 2528 into law. This bill eliminates the term "Action Level" and replaces it with two new terms.

The new term "Notification Level" is created. It is defined as "the concentration level of a contaminant in drinking water delivered for human consumption that the department has determined, based on available scientific information, does not pose a significant health risk but warrants notification pursuant to this section." A wholesaler that delivers water above the Notification Level must notify the water system's governing body, the water systems that are directly supplied with that drinking water and the Public Utility Commission if the wholesaler is a regulated entity. A retailer must notify the water system's governing body, the governing body of the areas served and the Public Utility Commission if the retailer is a regulated entity.

The new term "Response Level" is created. It is defined as "the concentration of a contaminant in drinking water delivered for human consumption at which the department recommends that additional steps, beyond notification pursuant to this section, be taken to reduce public exposure to the contaminant."

Prior to the enactment of this law, these additional steps were often recommended to water systems by the Department of Health Services, including shutting off the well if the contaminant level was ten times the Action Level.

It is presumed DHS will update its rules to meet the newly created definitions. However, water systems should:

1. Look carefully at any contracts, agreements or other such documents that make reference to "Action Level" and determine if this change in law requires contractual amendments.
2. Look carefully at any permit that may have been issued that makes reference to "Action Level" and determine if there is a need to request a modification of the permit.
3. Look carefully at all internal procedures to make sure the new nomenclature is inserted as appropriate and provide training to those who may be dealing with this issue.

If you would like more information on this new statute, please feel free to contact Steve Hoch at (310) 500-4611 or via email at SHoch@HatchParent.com.