

Client Alert

Toxic Tort and Environmental Litigation

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California Becomes First State to Adopt Statewide Testing Requirement for Microplastics in Drinking Water

In 2018, California became the first state to address the issue of microplastics head on when it passed a pair of bills which required the State to begin building microplastics management strategies for drinking water and along California's coast. Among other things, Senate Bill 1422, which was codified as part of the California Safe Drinking Water Act, required the California State Water Resources Control Board to develop its own testing method to measure microplastic particles in drinking water by 2021. In September 2022, after significant research and analysis of testing methods, the State Water Board approved a policy handbook detailing how it would implement the two-phase, four-year testing plan, including testing logistics as well as selection methods for those agencies that would be required to adhere to the guidelines.

Phase One of the plan, which focuses on large untreated community water systems, began in Fall 2023 and will continue through 2025. It calls for up to 30 of the State's largest water agencies, or those providing water to over 100,000 people, to collect water from untreated water sources, such as rivers, aqueducts and reservoirs, and send samples to one of the laboratories working with State Water Board. Water providers were selected based on their size and the degree of treatment their water undergoes, and the list includes major urban systems that provide water to cities like Los Angeles, Sacramento and San Francisco. Following collection, the water samples will be analyzed through Raman and infrared spectroscopy and the results reported publicly online. Water providers will bear the cost of the testing, which officials say will be between \$1,000 and \$2,000 per sample.

The first two years of monitoring will be followed by six months of evaluation, including an assessment of the latest microplastics



developments, to determine the extent of the contamination and whether treated drinking water should be evaluated in Phase Two of the State's plan. Phase Two, if it occurs, will begin in Fall 2026. The focus of Phase Two will be microplastics in treated drinking water.

Water providers undoubtedly face a difficult task for multiple reasons, including cross-contamination, the need for human judgment to distinguish between plastic and non-plastic particles, and the lack of good technology to accurately identify microplastics' size, shape and composition. Despite these challenges, water providers have generally supported the push for microplastics monitoring. Most of the concerns that have arisen relate to technical aspects of the new procedures and whether the findings will actually prove useful given the lack of understanding between microplastics and human health effects.

While no other state has gone as far as California in terms of implementing a comprehensive statewide microplastics strategy, states have followed California's lead and passed regulations to test drinking water for microplastics. In 2023, Virginia, New Jersey and Illinois passed laws requiring their state health departments to adopt procedures for the testing and research about testing for microplastics in drinking water. Most recently, in February 2024, Rhode Island introduced a bill that would require its health department to adopt a microplastics testing plan to regularly test water and soil beginning in 2026. New York City also has a bill pending in its legislature that would require its health department to test drinking water for microplastics. We are likely to see additional states pass similar regulations in the next couple of years.

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