

# WASHINGTON STATE BOARD OF HEALTH

**Date:** June 12, 2024

**To:** Washington State Board of Health Members

**From:** Kate Dean, Board Member

**Subject:** Rules Briefing – Chapter 246-290 WAC, Group A Public Water Supplies, Implementing the EPA’s Per and Polyfluoroalkyl Substances (PFAS) standards

**Background and Summary:**

[RCW 43.20.030\(2\)\(a\)](#) grants the State Board of Health (Board) authority to adopt rules for Group A public water systems that are necessary to assure safe and reliable drinking water and to protect public health.

In October 2021 the Board adopted drinking water state action levels (SALs) for per- and polyfluoroalkyl substances (PFAS) in [chapter 246-290 WAC](#), Group A Public Water Supplies and related provisions in [chapter 246-390 WAC](#), Drinking Water Laboratory Certification and Data Reporting. WAC 246-290-315 includes criteria for monitoring, reporting, follow-up actions, and public notification relevant to SALs. It also includes criteria that apply when the Environmental Protection Agency (EPA) adopts a federal MCL for a contaminant that has a state action level set in rule. WAC 246-290-315(8) says that a federal MCL will supersede a SAL, and the associated requirements, including for monitoring and public notice.

On April 26, 2024, the EPA published the first-ever national drinking water [standard](#) (federal standard) to protect communities from exposure to PFAS. The federal standard establishes federal MCLs, requirements for monitoring, reporting, public notification, treatment, and violations.

Across almost all the contaminants, the MCLs in the federal standard are more stringent than the SALs the Board adopted in 2021. The EPA also included a hazard index for certain chemicals to account for additive effects of some combinations of PFAS. To allow states and water system purveyors time to adapt to these changes, the EPA’s effective dates for the MCLs, certain monitoring requirements, and public notification are delayed. This creates complexity and has implications the Board should consider.

Today, Mike Means from the Department of Health Office of Drinking Water will present to the Board an additional background on PFAS and a comparison of the Board’s rule to the federal standards. Board staff will then present rulemaking options and recommendations for the Board to consider.

(continued on the next page)

### Recommended Board Actions:

The Board may wish to consider and amend, if necessary, the following motions:

The Board directs staff to do the following:

- File a CR-103E to initiate rulemaking for WAC 246-290-315, to clearly maintain the SALs and associated requirements until the federal standards are effective;
- File a CR-102 to adopt the federal standards and associated effective dates into chapter 246-290 WAC through an exception rulemaking process;
- File a CR-101 to permanently fix the rule language in 246-290-315 and to explore adopting the MCLs as SALs until the MCLs become effective; and
- File a CR-102 to update references in chapter 246-390 WAC through an exception rulemaking process.

### Staff

Shay Bauman, Policy Advisor

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PO Box 47990 • Olympia, WA 98504-7990  
360-236-4110 • [wsboh@sboh.wa.gov](mailto:wsboh@sboh.wa.gov) • [sboh.wa.gov](http://sboh.wa.gov)