

WSR 26-01-082

PERMANENT RULES

STATE BOARD OF HEALTH

[Filed December 15, 2025, 8:10 a.m., effective January 15, 2026]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Per- and polyfluoroalkyl substances (PFAS); state action levels, state maximum contaminant levels and public notifications for Group A public water supplies in chapter 246-290 WAC.

The state board of health (board) adopted amendments to WAC 246-290-315, State action levels (SALs) and state minimum contaminant levels (MCLs), and 246-290-71006 Public notice for contaminants with a SAL and other unregulated contaminants, to align with the federal Environmental Protection Agency's (EPA) new standards for PFAS. The board adopted an emergency rule, WSR 25-13-104 on June 18, 2025, to amend WAC 246-290-315 to keep state protections for drinking water in place until EPA's new federal standards take effect. The board adopted subsequent emergency rules while this rule making is ongoing in WSR 24-21-138, 25-05-095, 25-13-104, and 25-21-086. The board adopted permanent rule amendments to incorporate the changes from the emergency rule making to keep current state protections in place until the federal provisions take effect and to amend the SALs to align with the new EPA MCL values before the federal effective date.

Citation of Rules Affected by this Order: Amending WAC 246-290-315 and 246-290-71006.

Statutory Authority for Adoption: RCW 43.20.050 (2)(a).

Adopted under notice filed as WSR 25-20-085 on September 30, 2025.

A final cost-benefit analysis is available by contacting Shay Bauman, P.O. Box 47990, Olympia, WA 98504-7790 [7990], phone 564-669-8929, fax 360-236-4088, TTY 711, email shay.bauman@sboh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 19, 2025.

Michelle A. Davis, MPA
Executive Director

RDS-5531.2

AMENDATORY SECTION (Amending WSR 21-23-097, filed 11/17/21, effective 1/1/22)

WAC 246-290-315 State action levels (SALs) and state maximum contaminant levels (MCLs). (1) The department shall consider the following criteria to select a contaminant for developing a SAL:

(a) Drinking water contributes to human exposure to the contaminant.

(b) The contaminant is known or likely to occur in public water systems at levels of public health concern. Sources of occurrence information include, but are not limited to:

(i) Washington state department of agriculture;

(ii) Washington state department of ecology; and

(iii) Monitoring results reported in accordance with 40 C.F.R. 141.35.

(c) The contaminant has a possible adverse effect on the health of persons exposed based on peer-reviewed scientific literature or government publications, such as:

(i) An EPA health assessment such as an Integrated Risk Information System assessment;

(ii) Agency for Toxic Substances and Disease Registry toxicological profiles;

(iii) State government science assessment; and

(iv) EPA guidelines for exposure assessment such as the EPA exposure factors handbook.

(d) A certified drinking water lab can accurately and precisely measure the concentration of the contaminant in drinking water at and below the level of public health concern using EPA-approved analytical methods.

(2) After consideration of the criteria in subsection (1) of this section, the department may develop a SAL based on the following:

(a) Evaluation of available peer-reviewed scientific literature and government publications on fate, transport, exposure, toxicity and health impacts of the contaminant and relevant metabolites;

(b) An assessment based on the most sensitive adverse effect deemed relevant to humans and considering susceptibility and unique exposures of the most sensitive subgroup such as pregnant women, fetuses, young children, or overburdened and underserved communities; and

(c) Technical limitations to achieving the SAL such as insufficient analytical detection limit achievable at certified drinking water laboratories.

(3) The state board of health shall consider the department's findings under subsections (1) and (2) of this section when considering adopting a SAL under this chapter.

(4) Contaminants with a SAL.

(a) If a SAL under Table 9 of this section is exceeded, the purveyor shall take follow-up action as required under WAC 246-290-320. For contaminants where the SAL exceedance is determined based upon an RAA, the RAA will be calculated consistent with other organic contaminants per WAC 246-290-320(6) or other inorganic contaminants per WAC 246-290-320(3).

TABLE 9
STATE ACTION LEVELS

Contaminant or Group of Contaminants	SAL	SAL Exceedance Based On:
Per- and polyfluoroalkyl substances (PFAS)		
PFOA	((10)) 4.0 ng/L	((Confirmed detection)) Running annual average
PFOS	((15)) 4.0 ng/L	((Confirmed detection)) Running annual average
PFHxS	((65)) 10 ng/L	((Confirmed detection)) Running annual average
PFNA	((9)) 10 ng/L	((Confirmed detection)) Running annual average
((PFBS	345 ng/L	Confirmed detection)
<u>HFPO-DA</u>	<u>10 ng/L</u>	<u>Running annual average</u>
<u>Hazard Index PFAS (HFPO-DA, PFBS, PFHxS, and PFNA)¹</u>	<u>1 (unitless)¹</u>	<u>Running annual average</u>

¹ The PFAS Mixture Hazard Index (HI) is the sum of component hazard quotients (HQs), which are calculated by dividing the measured component PFAS concentration in water by the relevant health-based water concentration when expressed in the same units (shown in ng/l for simplification). The HBWC for PFHxS is 10 ng/l; the HBWC for HFPO-DA is 10 ng/l; the HBWC for PFNA is 10 ng/l; and the HBWC for PFBS is 2000 ng/l.

$$\text{Hazard Index:} = \frac{(\text{HFPO-DA}_{\text{water ng/l}} / 10 \text{ ng/l}) + (\text{PFBS}_{\text{water ng/l}} / 2000 \text{ ng/l}) + (\text{PFNA}_{\text{water ng/l}} / 10 \text{ ng/l}) + (\text{PFHxS}_{\text{water ng/l}} / 10 \text{ ng/l})}{}$$

- HBWC = health-based water concentration
- HQ = hazard quotient
- ng/L = nanograms per liter
- PFAS_{water} = the concentration of a specific PFAS in water

(b) If a system fails to collect and submit a confirmation sample to a certified lab within ~~((ten))~~ 10 business days of notification of the sample results, or as required by the department, the results of the original sample will be used to determine compliance with the SAL.

(5) The department shall consider the following when developing a state MCL:

- (a) The criteria in subsection (1) of this section;
- (b) Whether regulating the contaminant presents a meaningful opportunity to reduce exposures of public health concern for persons served by public water systems;
- (c) The need for an enforceable limit to achieve uniform public health protection in Group A public water systems; and
- (d) The need for an enforceable limit to support source water investigation and clean-up of a contaminant in drinking water supplies by responsible parties.

(6) In addition to the requirements in subsection (5) of this section, the department shall:

- (a) Meet the requirements of subsection (2) of this section;

(b) Comply with the requirements in RCW 70A.130.010 to establish standards for chemical contaminants in drinking water;

(c) Consider the best available treatment technologies and affordability taking into consideration the costs to small water systems; and

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs.

(7) The state board of health shall consider the department's findings under subsections (5) and (6) of this section and follow the requirements under chapters 34.05 and 19.85 RCW when adopting a state MCL under this chapter.

(8) ~~((Upon federal adoption of an MCL))~~ When a federal MCL takes effect, the federal MCL will supersede a SAL or a less stringent state MCL ~~((, and the associated requirements, including for monitoring and public notice))~~. If the ~~((federally adopted))~~ federal MCL is less stringent than a SAL or state MCL, the board may take one of the following actions:

(a) Adopt the federal MCL; or

(b) Adopt a state MCL, at least as stringent as the federal MCL, using the process in subsections (6) and (7) of this section.

(9) When a state MCL takes effect, it will supersede a SAL.

(10) When a federal or state MCL takes effect for a contaminant that has a SAL, public water systems that are not subject to the MCL shall continue to comply with SAL requirements.

RDS-6483.1

AMENDATORY SECTION (Amending WSR 21-23-097, filed 11/17/21, effective 1/1/22)

WAC 246-290-71006 Public notice for contaminants with a SAL and other unregulated contaminants. (1) The purveyor shall provide public notice to the water system users when the department determines that a contaminant exceeds a SAL listed in WAC 246-290-315, Table 9.

(2) The public notice must be in conformance with the requirements under WAC 246-290-71001 through 246-290-71004 and based upon the public notice tier designation of the contaminant or group of contaminants in Table 17 of this section.

TABLE 17
PUBLIC NOTICE TIER DESIGNATION FOR CONTAMINANTS WITH A SAL

Contaminant or Group of Contaminants	Public Notice Tier	<u>((Bioaccumulative)) SAL Exceedance Based on:</u>
PFOA	Tier 2	<u>((Yes)) Running annual average</u>
PFOS	Tier 2	<u>((Yes)) Running annual average</u>

Contaminant or Group of Contaminants	Public Notice Tier	((Bioaccumulative)) SAL Exceedance Based on:
PFHxS	Tier 2	((Yes)) <u>Running annual average</u>
PFNA	Tier 2	((Yes)) <u>Running annual average</u>
((PFBS	Tier 2	Yes))
<u>HFPO-DA</u>	<u>Tier 2</u>	<u>Running annual average</u>
<u>Hazard Index PFAS (HFPO-DA, PFBS, PFHxS, and PFNA)</u>	<u>Tier 2</u>	<u>Running annual average</u>

(a) The purveyor shall complete public notice for an initial exceedance of a Tier 1 designated SAL within ~~((twenty-four))~~ 24 hours of confirmation, and for every subsequent quarter in which analytical results exceed a SAL.

(b) The purveyor shall complete public notification for an initial exceedance of a Tier 2 designated SAL as soon as practical, but no less than within ~~((thirty))~~ 30 days of exceeding the SAL per Table 9 in WAC 246-290-315, and every three months thereafter as long as the results continue to exceed the SAL per Table 9 in WAC 246-290-315, or as directed by the department.

(3) The department may require public notice for other unregulated contaminants that are reported per requirements in WAC 246-390-075.