

WASHINGTON STATE BOARD OF HEALTH

Date: October 8, 2024

To: Washington State Board of Health Members

From: Kate Dean, Board Member

Subject: Rules Briefing – Group A Public Water Supplies, [WAC 246-290-315\(8\)](#) PFAS Emergency Rulemaking – Possible Action

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.

On June 12, 2024, the Board adopted emergency rules to correct criteria in the rule that apply when the Environmental Protection Agency (EPA) adopts a federal maximum contaminant level (MCL) for a contaminant that has a state action level set in rule. Before the change, WAC 246-290-315(8) said that upon *adoption* of a federal MCL, the MCL will supersede a SAL, and the associated requirements, including for monitoring and public notice.

The emergency rulemaking, filed as [WSR 24-14-016](#), changed this to state that *when a federal MCL becomes effective*, the MCL will supersede a SAL and its requirements. This change ensures that the protections Washington currently has in place for the SALs remain in place until the federal MCLs become effective in April 2029. Emergency rules remain in effect for 120 days, and the emergency rule expires later this month.

Today, Shay Bauman, Board Policy Advisor, will brief the Board on the impacts of the emergency rule and provide a recommendation.

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 continue to clearly maintain the SALs and associated requirements until the federal standards are effective.

(continued on the next page)

Staff

Shay Bauman, Policy Advisor

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