



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: October 22, 2024

TIME: 12:02 PM

WSR 24-21-138

Agency: State Board of Health

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Testing of drinking water contaminants - State action levels (SALs) and state maximum contaminant levels (MCLs) in WAC 246-290-315.

The State Board of Health (board) has authority under RCW 43.20.050 to adopt rules for group A public water systems that are necessary to assure safe and reliable public drinking water and to protect the public health. Chapter 246-290 WAC, Group A Public Water Supplies, establishes standards and requirements for these water systems. The Department of Health (department) administers the rules.

To ensure safe drinking water, water must be tested for contaminants. The board establishes SALs and MCLs to ensure contaminate levels are below a certain threshold. The board sets criteria for the adoption of SALs and MCLs in WAC 246-290-315 and includes criteria that would apply upon federal adoption of MCLs. WAC 246-290-315(8) states that upon federal adoption of a MCL, the MCL will supersede a less stringent SAL and associated requirements, including monitoring and public notice.

The EPA published new federal standards for per- and polyfluoroalkyl substances (PFAS) on April 10, 2024, with an adoption date of June 25, 2024. These new standards include MCLs. This affects the board's rule and triggers the provision in WAC 246-290-315(8). The federal standards, however, have delayed effective dates for criteria and public health protections that are currently in place for Washington. According to the Washington state rules associated with the SALs, public water systems must notify customers of detections of PFAS above the SAL within 30 days of that detection. This is necessary to allow people the opportunity to protect themselves by using bottled water, securing a filter, or taking other measures. 30-day public notification is not effective for MCLs in the federal standard until April 2029. Without this amendment to WAC 246-290-315, customers served by group A public water systems will no longer be notified of dangerous levels of PFAS in their drinking water, which is a significant reduction in protections.

The board adopted an emergency rule on June 12, 2024, to amend WAC 246-290-315 such that the criteria would apply on the effective date of an MCL as set in the federal standard, not the adoption date, in order to maintain vital public health protections for drinking water safety. Along with the emergency rulemaking, the board initiated a permanent rulemaking to amend the rule language to align with the emergency provision and explore other protections. The CR-101, Preproposal Statement of Inquiry, for the permanent rulemaking was filed as WSR 24-20-093 on September 30, 2024. This 2nd emergency rule continues the emergency rule originally filed on June 24, 2024, as WSR 24-14-016, without change.

Citation of rules affected by this order:

New: None
Repealed: None
Amended: WAC 246-290-315
Suspended: None

Statutory authority for adoption: RCW 43.20.050(2)(a)

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The federal adoption date of the standards was June 25, 2024, at which point the MCLs and relative protections would have superseded the SALs. Because of the delayed effective date, currently active public health protections would have ended on that date. The Board finds that emergency adoption of this rule is necessary to preserve public health.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The 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 |
| Recently enacted state statutes: | New 0 | Amended 0 | Repealed 0 |

The number of sections adopted at the request of a nongovernmental entity:

| | | |
|-------|-----------|------------|
| New 0 | Amended 0 | Repealed 0 |
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The number of sections adopted on the agency's own initiative:

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| New 0 | Amended 1 | Repealed 0 |
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

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| New 0 | Amended 0 | Repealed 0 |
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The number of sections adopted using:

| | | | |
|--------------------------------|-------|-----------|------------|
| Negotiated rule making: | New 0 | Amended 0 | Repealed 0 |
| Pilot rule making: | New 0 | Amended 0 | Repealed 0 |
| Other alternative rule making: | New 0 | Amended 1 | Repealed 0 |

Date Adopted: October 22, 2024

Name: Michelle Davis, MPA

Title: Executive Director, Washington State Board of Health

Signature:

