

# Concise Explanatory Statement

## Chapter 246-290 and 246-390 WAC

### PFAS Exception Rulemaking



Comment Received	Department of Health Determination
<p>We emphasize the need for certainty regarding these standards. While we understand that state standards cannot be less restrictive than federal requirements, we are currently investing significant resources in treatment technologies designed to meet the existing MCLs. Any future changes to these standards could disrupt ongoing design and construction efforts, which require years to complete and represent millions of dollars in investment, leading to increased project costs and delays, and create uncertainty for water systems attempting to plan and budget for compliance.</p> <p>We strongly urge the state to uphold the current MCLs and compliance standards to enable water systems to proceed confidently in their efforts to meet regulatory requirements.</p>	<p><b>No change to proposed rule.</b> Thank you for your comment. The department appreciates all of the efforts that water systems are taking to come into compliance with the PFAS regulations.</p> <p>The department believes that by adopting the current MCL values in the actual MCL table within the state rules, we will be able to uphold the current MCLs and continue to be protective of public health in Washington state while providing assurance to public water systems in meeting their regulatory requirements.</p>
Question Received	Department of Health Response
<p>When the MCL is enacted on April 26, 2027, what are the specific implications for purveyors?</p>	<p>On April 26, 2027, water systems will need to begin baseline compliance monitoring or increased monitoring for PFAS depending on what their initial monitoring discovered. Purveyors will continue to be required to complete public notification and information on their consumer confidence reporting in accordance with existing state rules, which are already more stringent than federal rules.</p>
<p>Would we be considered in violation immediately after April 26, 2027, if our system exceeds the MCL?</p>	<p>No. Violations for exceedance of the MCL do not apply until April 2029.</p>

Does the language in the table for PFAS contaminants mean that inclusion in the Consumer Confidence Report (CCR) is required, but an actual violation would not occur until 2029?	Yes, that is correct.
With EPA's recent announcement to rescind the hazard index, as well as regulatory requirements for PFHxS, PFNA, and HFPO-DA (GenX), will PFHxS, PFNA, PFBS, and HFPO-DA (GenX) still have state regulatory requirements? Will these requirements only be for monitoring/public notifications or will they require treatment?	While the EPA has made an announcement, they have not yet proposed the associated rules to align with that proposal. The department's adopted rules place the MCLs within the associated tables of state rule as an MCL and would require treatment. However, future changes to federal regulations may require the department to do additional rulemaking.
EPA's recent statement announced extending the timeline for the MCL to go into effect and Tier II notifications to 2031. Will the state also extend its timeline for Tier II notifications and MCL compliance?	The EPA has to complete rulemaking to extend the deadlines. The department's rules adopt the deadlines by reference and any changes would subsequently apply in Washington without additional rulemaking.
What timeline will the state require for Tier III notifications under the current sampling approach?	The state already requires Tier III notification for exceedances of SALs. There is also an ongoing permanent rulemaking process to make the SAL values align with the MCLs. This would mean that exceedances of the MCL would require Tier II notification and Tier III notification in Washington. The federal rule requires Tier III notification starting April 26, 2027.
Will the State Action Levels still remain, or will they be superseded by the EPA's MCLs?	Yes, State Action Levels will remain until superseded by the MCL for community and non-transient non-community Group A public water systems. Transient non-community public water systems will still be subject to SALs if required to sample by the state. This is part of the State Board of Health's permanent rulemaking.
The EPA's rule requires meeting compliance through the running annual average (RAA) which is based on quarterly sampling. Will the State be adopting this sampling compliance criteria or will utilities be required by the State to follow WAC 246-290-310 which would require monthly finished water sampling?	The state intends to move compliance determination to a running annual average. This is part of the State Board of Health's permanent rulemaking.

**CES WSR 25-13-093**



To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email [doh.information@doh.wa.gov](mailto:doh.information@doh.wa.gov).