



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 30, 2025

TIME: 10:00 AM

WSR 25-20-085

Agency: Washington State Board of Health

☒ Original Notice

☐ Supplemental Notice to WSR

☐ Continuance of WSR

☒ Preproposal Statement of Inquiry was filed as WSR 24-20-093 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: 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) is proposing amendments to WAC 246-290-315, State Action Levels (SALs) and State Minimum Contaminant Levels (MCLs) and WAC 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 federal standards for per- and polyfluoroalkyl substances (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 the EPA's new federal standards take effect. The board adopted subsequent emergency rules while this rulemaking is ongoing in WSR-24-21-138, WSR 25-05-095, and WSR 25-23-104. The board is proposing permanent rule amendments to incorporate the changes from the emergency rulemaking to keep current state protections in place until the federal provisions take effect and to change the SALs to align with the new EPA standards before the federal effective date. The board is also considering editorial changes and updates to definitions to assure consistency of terms between federal and state rules in WAC 246-290-010 and 246-290-025.

Hearing location(s):

Date:	Time:	Location:	Comment:
November 19, 2025	3:00 pm	Washington State Department of Health 111 Israel Road S.E. Tumwater, WA 98501 Building: Town Center Two (TC2, Rooms 166 & 167)	The rules hearing will be hybrid. Individuals may attend either virtually or in-person. Register to participate via Zoom here: https://us02web.zoom.us/webinar/register/WN_DII0Jo2yQUe1KBgX_flccw

Date of intended adoption: November 19, 2025 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Shay Bauman
Address P.O. Box 47990, Olympia, WA 98504-7790
Email drinkingwater@sboh.wa.gov
Fax
Other <https://fortress.wa.gov/doh/policyreview/>
Beginning: Date and time of filing
By: October 27, 2025

Assistance for persons with disabilities:

Contact
Phone
Fax
TTY
Email
Other
By (date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rule proposal is to incorporate changes from the previous emergency rulemakings to keep current state protections in place until the federal provisions take effect and to change the SALs to align with the new EPA standards before the federal effective

date. The rules are necessary to keep current protections related to SALs in place until the federal effective date, and not the adoption date. This is because many important federal provisions, including public notification of high contaminant levels, are not effective until 2029. The way the state rule was written, the protections that were in place under state SALs would go away until that date. The board is proposing to adopt the stricter contaminant values as SALs so that these customers can receive notifications sooner than the federal effective date to maintain and enhance vital public health protections for drinking water safety.

The board, in collaboration with the department, is aligning the PFAS testing and reporting requirements in WAC 246-290-315 and 246-290-71006 with the new federal regulation. Because the EPA evaluated the most current scientific data to develop PFAS MCLs, these represent the best approach for health protective standards. The PFAS SAL values will be updated to the EPA MCL values to provide optimal protection from PFAS in the state's public drinking water. The proposed changes will also maintain state efforts to ensure Group A systems continue state required testing for PFAS, make reporting requirements clearer and ease confusion about which set of health-based standards apply until the federal regulation becomes effective in April 2029.

Reasons supporting proposal: To ensure safe drinking water, water must be tested for contaminants. The board establishes SALs and MCLs to ensure contaminate levels are tested and actions are taken above 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 SAL and associated requirements, including monitoring and public notice. The emergency rule amended this language to state that when a federal MCL takes effect, the MCL will supersede a SAL and associated requirements, including monitoring and public notice. It is necessary to permanently adopt this language.

The federal government recently adopted MCLs related to per- and polyfluoroalkyl substances (PFAS). The MCLs are stricter than Washington's current SALs, but do not take effect until 2029. This means that people served by water systems that detect contamination levels above the MCL, but below the SAL, will not be notified within 30 days that their water contains elevated levels of PFAS. Because Washington already has a notification system in place for the SALs, the board is proposing to adopt the stricter contaminant values as SALs so that these customers can receive notifications sooner than the federal effective date.

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

Statute being implemented: RCW 43.20.050(2)(a).

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: State Board of Health

Type of proponent: ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting Shay Bauman	101 Israel Rd SE Tumwater, WA 98501	564-669-8929
Implementation Mike Means	111 Israel Rd SE Tumwater, WA 98501	360-236-3178
Enforcement Mike Means	111 Israel Rd SE Tumwater, WA 98501	360-236-3178

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

☒ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name Shay Bauman

Address PO Box 47990, Olympia, WA 98504-7790

Phone 564-669-8929

Fax 360-236-4088

TTY 711

Email shay.bauman@sboh.wa.gov

Other

☐ No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:

☐ [RCW 34.05.310](#) (4)(b)

(Internal government operations)

☐ [RCW 34.05.310](#) (4)(c)

(Incorporation by reference)

☐ [RCW 34.05.310](#) (4)(d)

(Correct or clarify language)

☐ [RCW 34.05.310](#) (4)(e)

(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(f)

(Set or adjust fees)

☐ [RCW 34.05.310](#) (4)(g)

((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4). (Does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: Check one.

☐ The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.

☐ The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

☒ The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: Complete this section if any portion is not exempt.

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

☒ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The following is a brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed. A description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

The State Board of Health (board) in collaboration with the Department of Health (department) is proposing amending drinking water testing and reporting requirements. Amendments will align the state per- and polyfluoroalkyl substances

(PFAS) testing and reporting requirements in WAC 246-290-315 and 246-290-71006 with new federal regulations established in April 2024. Rule changes include updating the contaminant type classifications and updating the method of exceedance detection.

More than 6.2 million¹ Washington residents get their drinking water from Group A public water systems (Group A water systems). In Washington state, the [State Board of Health \(board\)](#) regulates Group A water systems under [Revised Code of Washington \(RCW\) 43.20.050](#).

Under [RCW 70A.125.080](#), the [Washington State Department of Health \(department\)](#) is directed to administer a Group A drinking water program with at least the elements necessary to assume primary enforcement responsibility of the federal Safe Drinking Water Act (SDWA).

The department administers the Group A drinking water program and regulates Group A water systems through a formal agreement with the U.S. Environmental Protection Agency (EPA) known as “primacy.”

The department and the board work closely on rulemaking for drinking water. The department provides expertise and resources for implementation, and makes recommendations to the board; and the board has the authority to adopt the proposed changes into rule.

In 2017, the board accepted a petition for rulemaking to set drinking water standards for per- and polyfluoroalkyl substances (PFAS) in chapter 246-290 WAC. PFAS are chemicals that have been used in industry and consumer products such as carpeting, apparel, upholstery, food paper wrappings, fire-fighting foams, and metal plating worldwide since the 1950s.

PFAS are odorless and tasteless, therefore, contaminant levels can only be assessed through water sampling and analytical testing. Recent studies² have linked PFAS exposure to widespread health effects, including reproductive effects such as decreased fertility or increased high blood pressure in pregnant women, developmental effects or delays in children, low birth weight, accelerated puberty, bone variations, behavioral changes, and depressed immune system function, including reduced vaccine response. Initial testing and then testing every three years thereafter across Washington state of Group A systems help the department identify impacted drinking water supplies and notify customers of those systems, as well as other nearby private and Group B wells that they may want to test³. This testing protocol starts the process of finding and mitigating local sources.

In April 2024, the federal government published the first National Public Drinking Water Regulation (NPDWR) for PFAS. The U.S. Environmental Protection Agency (EPA) provided all states with six legal Maximum Contaminant Levels (MCLs) for PFAS in public drinking water. An MCL is the maximum level of a contaminant allowable in a public water supply as defined by the Safe Drinking Water Act (42 U.S.C. § 300g-1), codified in 40 CFR Part 141, which sets the maximum legally permissible concentration of a contaminant in public water systems. Under the federal regulation, public water systems have five years from April 2024 to come into compliance with the National Public Drinking Water Regulations for PFAS by testing for PFAS and ensuring all water sources are below the MCLs. Under the federal regulation, beginning in April 2029 systems exceeding a PFAS MCL will be in violation of federal law and must notify the public and take action to reduce PFAS values to levels at or below the MCL.

This change in federal standard directly affects Washington’s rules by triggering the provision in WAC 246-290-315(8) under board authority stating that upon federal adoption of an MCL, the federal MCL will supersede a SAL or a less stringent state MCL, and the associated requirement. This proposed rule change addresses the discrepancy between the public notification requirements of the state level SAL compared to the April 2024 NPDWR.

As a result, Washington benefits from current state level health protections whereas the federal standards, though legally binding once effective, delay implementation until 2029. As a result, while states have until April 2029 to become compliant with the new MCLs, the 30 day public notification requirement is not effective. This creates a regulatory gap: if testing conducted before April 2029 identifies PFAS concentrations above the federal MCLs, public water systems would not be obligated under federal law to notify consumers, even though Washington’s state action level requirements already mandate notification within 30 days.

The board, in collaboration with the department, is proposing to align PFAS testing and reporting requirements in WAC 246-290-315 and 246-290-71006 with the new federal regulation. Because the EPA evaluated the most current scientific data to develop PFAS MCLs, these represent the best approach for health protective standards. The proposed changes update

¹ [Group A Public Water Supplies - PFAS Rulemaking | Washington State Department of Health](#)

² [Our Current Understanding of the Human Health and Environmental Risks of PFAS | US EPA](#)

³ A Group B water system is a public water system that does not meet the definition of a Group A water system. (See Table 1 under WAC 246-290-020 and chapter 246-291 WAC for further explanation of a Group B water system.) Group B water systems are regulated by local health jurisdictions under a joint plan of responsibility.

Washington rule to align PFAS SAL values with the EPA MCL values to provide optimal protection from PFAS in the state's public drinking water. The proposed changes also maintain state efforts to ensure Group A systems continue state required testing for PFAS, make reporting requirements clearer, and ease confusion about which set of health-based standards apply until the federal regulation becomes effective in April 2029.

SECTION 2

Identification and summary of which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS).

SBEIS Table 1. Summary of Businesses Required to comply to the Proposed Rule

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	Number of businesses in Washington State	Minor Cost Threshold
221310	Water supply and irrigation systems ⁴	149	\$3,282.48

SECTION 3

Analysis of probable costs of businesses in the industry to comply to the proposed rule and includes the cost of equipment, supplies, labor, professional services, and administrative costs. The analysis considers if compliance with the proposed rule will cause businesses in the industry to lose sales or revenue.

To gather information on the costs and benefits of the proposed rule changes, the board and the department collaborated to draft a cost survey that was distributed to Group A water operators (Group A water systems, investor owned utilities (IOUs), and satellite management agencies (SMAs) in Washington State. This survey was distributed via email which included a SurveyMonkey link. The survey was open from July 28th to August 8th.

The board asked Group A water operators to estimate the anticipated costs of several new requirements in the proposed rule. The respondents represent very small (less than 100 service connections) to very large (over 100,000 service connections) Group A water systems and represent all parts of Washington state. Table 1 shows the number of Group A water systems that responded (n=25) and the number of service connections served.

SBEIS Table 2: Respondents by number of Service Connections⁵

Number of cost survey respondents	Number of Service Connections Served
15	Less than 100
5	100-999
2	1,000-4,999
0	5,000-9,999
3	10,000-100,000
0	Over 100,000

The number of respondents that provided cost estimates are identified in the section-by-section analysis below. In cases where treatment was mentioned, the board and department removed responses deemed as outside the scope of the rule. The costs estimated from Group A water systems (n=6) are discussed in the relevant sectional analyses below.

Sectional Analysis

WAC 246-290-315 State action levels (SALs) and state maximum contaminant levels (MCLs).

Description: The proposed rule makes changes to subsection (4) to align with the newly adopted federal rules published by the EPA for PFAS on April 10, 2024. The proposed rule makes changes in order to align the federal PFAS testing and reporting requirements. Because the EPA evaluated the most current scientific data to develop PFAS MCLs, these represent the best approach for health protective standards. If a water system's testing levels exceed the SAL then they must notify their customers, which is further outlined in 246-290-71006. This does not impact all Group A water systems, only those who are at the current SAL and must begin testing to align with the EPA's testing requirements. The proposed rule does not change monitoring or treatment requirements.

The proposed rule also makes several changes to Table 9, which lists contaminants with a SAL. It removes PFBS as an individual contaminant and instead adds a Hazard Index metric, which is a tool used to assess the potential health risks from multiple PFAS chemicals. The hazard index accounts for PFBS in the water supply. It also adds HFPO-DA, an additional

⁴ NAICS defines water supply and irrigation systems as industry that comprises establishments primarily engaged in operating water treatment plants and/or operating water supply systems. The water supply system may include pumping stations, aqueducts, and/or distribution mains. The water may be used for drinking, irrigation, or other uses.

⁵ Three respondents did not identify their business or operation name and therefore are not included in this table.

contaminant for which the EPA adopted an MCL. The proposed rule changes the SAL values in Table 9 to the federal MCL values and adds values for HFPO-DA and the Hazard Index.

The proposed rule also changes the method to establish exceedance of a SAL value from a confirmed detection to a running annual average (RAA). Confirmed detection is when a contaminant is detected in an initial sample and detected again in a follow-up confirmation sample. Confirmed detection is best used for acute contaminants where a single exceedance can pose an immediate health risk. RAA is a method that uses the average of all sample results for the most recent four quarters for a specific contaminant. This change aligns with the regulations adopted by the EPA.

Cost(s): The board and department anticipate there will be costs for testing Group A water systems that have PFAS levels above the current SALs. The proposed rule changes the SALs to align with the federal MCLs from 10 ng/L to 4.0 ng/L for certain contaminants, there will be water systems that now exceed the SAL. Based on this, the department and board anticipate increased testing which increases costs incurred.

The cost⁶ of sampling tests for PFAS can range from \$286.72 to \$694.56⁷ which includes the cost for field blanks to be shipped with a sample when there is a detection. The average cost for a sampling test that does not require a field blank to be shipped with the sample is \$344.79.

The tables below show the costs to test for the contaminants listed in the proposed rule subsection (4). It is important to note, multiple survey respondents included the cost of water treatment when listing increased cost for changing the SAL for the contaminants listed. Those costs are outside the scope of this rulemaking and not included in the costs calculated below, as treatment is not required until the federal rule takes effect in 2029. Costs were cleaned and analyzed using Microsoft Excel. In cases where treatment was mentioned, the department removed responses deemed as outside the scope of the rule.

SBEIS Table 3: Estimated One-Time or Initial Cost to Test PFAS Contaminants

Contaminant or Group of Contaminants	Mean Cost (\$)	High Cost (\$)	Low Cost (\$) ⁸
PFOA	1,650	5,000 ⁹	500
PFOS	1,200	2,400	0
PFHxS	0	0	No Response
PFNA	0	0	No Response
HFPO-DA	0	0	No Response
Hazard Index PFAS (HFPO-DA, PFBS, PFHxS, and PFNA) ¹⁰	0	0	No Response

SBEIS Table 4: Estimated Annual Recurrent Costs to Test PFAS Contaminants

Contaminant or Group of Contaminants	Mean Cost (\$)	High Cost (\$)	Low Cost (\$) ¹¹
PFOA	2,320	5,000	500
PFOS	2,550	2,700	2,400
PFHxS	1,350	2,700	No Response
PFNA	0	0	No Response
HFPO-DA	0	0	No Response
Hazard Index PFAS (HFPO-DA, PFBS, PFHxS, and PFNA) ¹²	1,350	2,700	No Response

⁸ No response reflects that no respondents provided a cost estimate for the contaminant in both tables.

⁹ One respondent indicated a one-time or initial cost of \$20,000 for major filtration costs that is not included in the cost breakdown. Efforts were made to reach out to the respondent to further clarify costs, but we did not receive a response. However, since this rule does not require filtration, the board and department did not attribute the cost to the rule requirement.

¹⁰ 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.

¹¹ No response reflects that no respondents provided a cost estimate for the contaminant in both tables.

¹² Ibid.

Description: The proposed rule amends subsection (8) to state that when a federal MCL takes effect, the federal MCL will supersede a SAL or a less stringent state MCL. Under the current rule language, this would occur upon federal adoption of an MCL.

Cost(s): The board and department do not anticipate any additional costs for establishing that when a federal MCL takes effect, it will supersede a SAL or a less stringent MCL.

Description: The proposed rule adds new language, in subsection (9), to clarify that when a state MCL takes effect, it will supersede a SAL.

Cost(s): The board and department do not anticipate any additional costs for a state MCL superseding a SAL when it takes effect as it clarifies language on already established state requirements.

Description: The proposed rule adds new language in subsection (10) to state that 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 have to continue to comply with the SAL requirements.

Cost(s): The board and department do not anticipate any additional cost for adding new language in subsection (10) as it clarifies that 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 must continue to comply with the SAL requirements.

WAC 246-290-71006 Public notice for contaminants with a SAL and other unregulated contaminants.

Description: This section requires the purveyor to provide public notice to consumers following the detection of contaminants in a water system with a SAL. Eventually, the EPA standards will include a 30-day public notification of detections above the MCLs. The proposed rule updates the PFAS contaminants in Table 17 to align with the changes made by the EPA and reflected in Table 9 in WAC 246-290-315.

The proposed rule also changes the method to establish exceedance of a SAL value from a confirmed detection to a running annual average (RAA). Confirmed detection is when a contaminant is detected in an initial sample and detected again in a follow-up confirmation sample. Confirmed detection is best used for acute contaminants where a single exceedance can pose an immediate health risk. RAA is a method that uses the average of all sample results for the most recent four quarters for a specific contaminant. The delivery methods per the proposed amendments ensure every consumer is notified via direct delivery and additional methods reasonably calculated to reach all consumers.

Cost(s): If a Group A water systems falls between 10 ng/L and 4 ng/L, operators will be required by the proposed rule to conduct public notification for customers.

Table 5 shows the estimated costs for quarterly public notification from a previous analysis done in 2021, with estimates adjusted for inflation to 2025.

SBEIS Table 5: Estimated Costs for Public Notifications¹³

Action	Mean Cost (\$)	High Cost (\$)	Low Cost (\$)
Quarterly Public Notification	2,903	57,565	18
Annual Public Notification ¹⁴	11,611	230,257	35

Group A water systems must continue providing quarterly public notification as long as they continue to exceed a SAL. Although there are fixed costs included (such as developing required messaging) the variable cost of providing notices to all system users results in variable costs by size of system (e.g., larger costs for the larger systems and smaller costs for the smaller systems (based on the number of connections). Due to the inclusion of fixed costs (that were not separated from the estimate), it is likely that the annual public notification calculated in Table 3 is an overestimate.

SECTION 4

Analysis on if the proposed rule may impose more than minor costs for businesses in the industry. Includes a summary of how the costs were calculated.

Yes, the costs of the proposed rule (first year costs of compliance range between \$1,000 and \$5,000) are greater than the minor cost threshold (\$3,282.48).

Summary of how the costs were calculated

Costs were analyzed by individual business (SBEIS Table 6) with one-time costs added to annual costs to produce an estimated first year cost per business, ranging from \$1,000 to \$5,000.

SBEIS Table 6. Cost per business to comply with proposed rule*

¹³ Costs were adjusted from 2021\$ to 2025\$ using the U.S. Bureau of Labor Statistics Inflation Calculator on September 2, 2025 and then rounded up to next whole dollar. [CPI Inflation Calculator](#).

¹⁴ Annual costs were calculated by multiplying quarterly notification by 4 and then inflating to 2025\$.

Business Identifier	Type of Business	One-time cost (\$)	Annual cost (\$)	First year cost (\$)**
Business A	Small Business <=50	NA	2,700	2,700
Business B	Small Business <=50	5,000	NA	5,000
Business C	Small Business <=50	500	500	1,000
Business D	Large Business >=51	2,400	2,400	4,800
Business E	Small Business <=50	NA	5,000	5,000
Business F	Small Business <=50	2,000	1,000	3,000

*NA reflects that the value was left blank by survey respondents

**First year costs were calculated by adding up on-time costs and annual costs

When including the cost of annual public notification (ranging from \$35 to \$230,257) the range for one business to comply with the proposed rule is estimated between \$1,035 and \$235,257. The upper limit of the range exceeds the minor cost threshold for water supply and irrigation systems of \$3,282.48 (SBEIS Table 1).

SECTION 5

Determination on if the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

No, the board and department do not anticipate the proposed rule will have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Explanation of the determination

The board and department do not anticipate the proposed rule will have a disproportionate impact on small businesses because the correlation to employees and number of connections served is not indicative of a small business as defined in RCW 19.85.020 (3), which states a small business "means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees".¹⁵ Most water systems are not for profit businesses; they are cities, utility districts, and water and sewer districts. For example, Business A in the survey serves over 100 connections but still has less than 50 employees. The risk of disproportionate impact is not on smaller businesses versus larger businesses, but instead the impact lies based on the number of connections and customers served. Those with fewer customers may be impacted more by sampling costs since they are fixed costs, but larger systems may have much larger costs for public notification.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name Shay Bauman

Address PO Box 47990, Olympia, WA 98504-7990

Phone 360-236-4110

Fax None

TTY 711

Email shay.bauman@sboh.wa.gov

Other N/A

Date: 9/29/2025

Name: Michelle Davis, MPA

Title: Executive Director, Washington State Board of Health

Signature:



¹⁵ [RCW 19.85.020: Definitions.](#)

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))
HFPO-DA	10 ng/L	Running annual average
<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.

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	((Bioaccumulative)) SAL Exceedance Based on:
PFOA	Tier 2	((Yes)) <u>Running annual average</u>
PFOS	Tier 2	((Yes)) <u>Running annual average</u>
PFHxS	Tier 2	((Yes)) <u>Running annual average</u>
PFNA	Tier 2	((Yes)) <u>Running annual average</u>
((PFBS	Tier 2	Yes))
HFPO-DA	Tier 2	<u>Running annual average</u>
<u>Hazard Index PFAS (HFPO-DA, PFBS, PFHxS, and PFNA)</u>	Tier 2	<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.