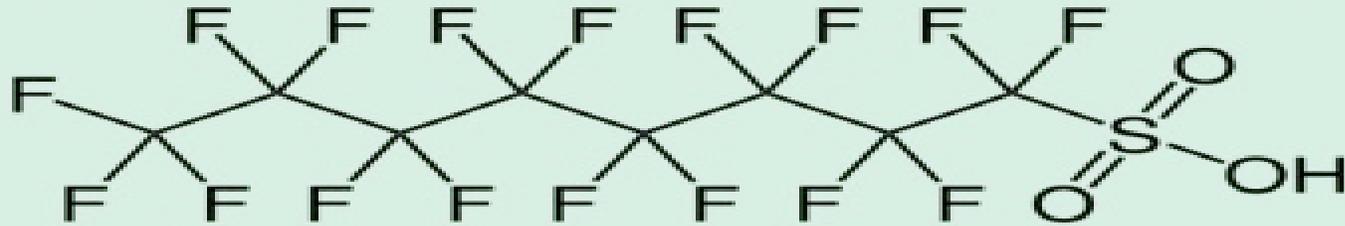
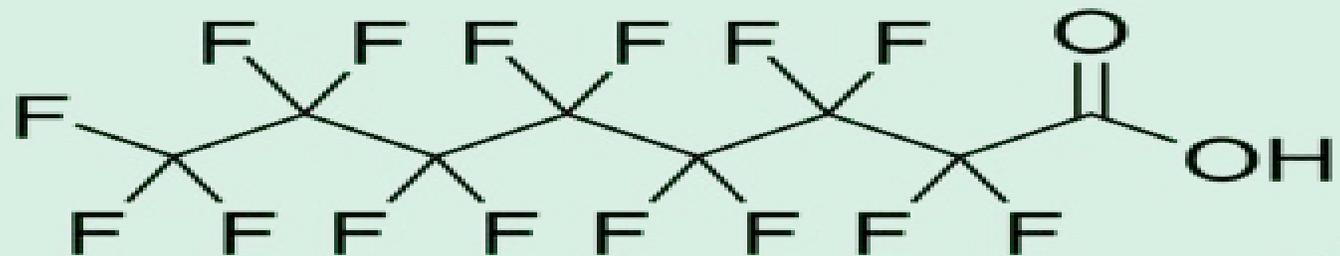


PFAS

PFOS (Perfluorooctanesulfonic acid)



PFOA (Perfluorooctanoic acid)



Per- and Polyfluoroalkyl Substances (PFAS)

- PFAS are a group of manufactured chemicals that have been used in industry and consumer products since the 1940s because of their useful properties. There are thousands of different PFAS, some of which have been more widely used and studied than others.
- Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS), for example, are two of the most widely used and studied chemicals in the PFAS group. PFOA and PFAS have been replaced in the United States with other PFAS in recent years.
- One common characteristic of concern of PFAS is that many break down very slowly and can build up in people, animals, and the environment over time.

Per- and Polyfluoroalkyl Substances (PFAS) Standards and Testing Timeline

- The Wisconsin Department of Natural Resources (DNR) is looking to revise Wis. Admin. Code chapter NR 809 “Safe Drinking Water” to include maximum contaminant levels (MCLs) for PFOA and PFOS but did not follow the Safe Drinking Water Act (SDWA) standard setting process in proposing the state standards.
 - Instead, the DNR set the proposed standards based on the Wisconsin Department of Health Services proposed groundwater standards without conducting a normal sets of analysis.
 - The DNR has never adopted a drinking water standard without first having a federal standard in place.
 - DNR DG-24-19 Statement of Scope to revise NR 809 can be found in Attachment A.
- The Village of Weston is a member of the Municipal Environment Group – Water Division (MEG) and as a group asked the DNR to wait for the EPA to promulgate federal drinking water MCLs before proceeding to adopt state standards.
 - Comments from MEG regarding the proposed revision to NR 809 can be found in Attachment B.

Per- and Polyfluoroalkyl Substances (PFAS) Standards and Testing Timeline

- The SDWA requires that once every five years EPA issue a list of unregulated contaminants to be monitored by public water systems.
- In 2012 EPA finalized the Unregulated Contaminant Monitoring Rule 3 (UCMR 3) to monitor more than 30 unregulated contaminants between 2013 and 2015. There were a handful of PFAS included in UCMR 3.
 - Based on the results the EPA set a health advisory level of 70 parts per trillion (ppt) for PFOA and PFOS individually or combined.
- The Village of Weston participated in UCMR 3 sample collection and all PFAS related compounds were reported as zero or below levels of detection.

Per- and Polyfluoroalkyl Substances (PFAS) Standards and Testing Timeline

- EPA announced its PFAS Strategic Roadmap in October 2021 with the goal of establishing MCLs for PFOA and PFOS by fall of 2022 with a final rule issued by 2023.
- On December 27, 2021 the EPA published UCMR 5 that will require sample collection of 30 chemical contaminants between 2023 and 2025 which is a significant milestone in the PFAS Strategic Roadmap.
 - Of the 30 chemical contaminants in UCMR 5, 29 are for PFAS. [Link to UCMR 5](#) can be found on last slide.

PFAS Can Be Found in Many Places

PFAS can be present in our water, soil, air, and food as well as in materials found in our homes or workplaces, including:

- **Drinking water** – in public drinking water systems and private drinking water wells.
- **Soil and water at or near waste sites** - at landfills, disposal sites, and hazardous waste sites such as those that fall under the federal Superfund and Resource Conservation and Recovery Act programs.
- **Fire extinguishing foam** - in aqueous film-forming foams (or AFFFs) used to extinguish flammable liquid-based fires. Such foams are used in training and emergency response events at airports, shipyards, military bases, firefighting training facilities, chemical plants, and refineries.
- **Food** – for example in fish caught from water contaminated by PFAS and dairy products from livestock exposed to PFAS.

PFAS Can Be Found in Many Places

- **Food packaging** – for example in grease-resistant paper, fast food containers/wrappers, microwave popcorn bags, pizza boxes, and candy wrappers.
- **Household products and dust** – for example in stain and water-repellent used on carpets, upholstery, clothing, and other fabrics; cleaning products; non-stick cookware; paints, varnishes, and sealants.
- **Personal care products** – for example in certain shampoo, dental floss, and cosmetics.
- **Biosolids** – for example fertilizer from wastewater treatment plants that is used on agricultural lands can affect ground and surface water and animals that graze on the land.

People Can Be Exposed to PFAS in a Variety of Ways

Due to their widespread production and use, as well as their ability to move and persist in the environment, surveys conducted by the Centers for Disease Control and Prevention (CDC) show that most people in the United States have been exposed to some PFAS. Most known exposures are relatively low, but some can be high, particularly when people are exposed to a concentrated source over long periods of time. Some PFAS chemicals can accumulate in the body over time.

Current research has shown that people can be exposed to PFAS by:

- Working in occupations such as firefighting or chemicals manufacturing and processing.
- Drinking water contaminated with PFAS.
- Eating certain foods that may contain PFAS, including fish.
- Swallowing contaminated soil or dust.
- Breathing air containing PFAS.
- Using products made with PFAS or that are packaged in materials containing PFAS.

Exposure to PFAS May be Harmful to Human Health

What We Know about Health Effects

Current peer-reviewed scientific studies have shown that exposure to certain levels of PFAS may lead to:

- Reproductive effects such as decreased fertility or increased high blood pressure in pregnant women.
- Developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes.
- Increased risk of some cancers, including prostate, kidney, and testicular cancers.
- Reduced ability of the body's immune system to fight infections, including reduced vaccine response.
- Interference with the body's natural hormones.
- Increased cholesterol levels and/or risk of obesity.

Exposure to PFAS May be Harmful to Human Health

Additional Health Effects are Difficult to Determine

EPA along with other federal agencies are continuing to conduct and review the growing body of research about PFAS. However, health effects associated with exposure to PFAS are difficult to specify for many reasons, such as:

- There are thousands of PFAS with potentially varying effects and toxicity levels, yet most studies focus on a limited number of better known PFAS compounds.
- People can be exposed to PFAS in different ways and at different stages of their life.
- The types and uses of PFAS change over time, which makes it challenging to track and assess how exposure to these chemicals occurs and how they will affect human health.

Certain Adults and Children May Have Higher Exposure to PFAS

Adults

Some people have higher exposures to PFAS than others because of their occupations or where they live. For example:

- Industrial workers who are involved in making or processing PFAS or PFAS-containing materials, or people who live near PFAS-producing facilities, may have greater exposure to PFAS.
- Pregnant and lactating women tend to drink more water per pound of body weight than the average person and as a result they may have higher PFAS exposure compared to other people if it is present in their drinking water.

Certain Adults and Children May Have Higher Exposure to PFAS

Children

Because children are still developing, they may be more sensitive to the harmful effects of chemicals such as PFAS. They can also be exposed more than adults because:

- Children drink more water, eat more food, and breathe more air per pound of body weight than adults, which can increase their exposure to PFAS.
- Young children crawl on floors and put things in their mouths which leads to a higher risk of exposure to PFAS in carpets, household dust, toys, and cleaning products.
- Breast milk from mothers with PFAS in their blood and formula made with water containing PFAS can expose infants to PFAS, and it may also be possible for children to be exposed in utero during pregnancy. Scientists continue to do research in this area. [Based on current science, the benefits of breastfeeding appear to outweigh the risks for infants exposed to PFAS in breast milk.](#) To weigh the risks and benefits of breastfeeding, mothers should contact their doctors.

Reducing PFAS in Your Drinking Water

Handout Courtesy of the Wisconsin Department of Health Services / Safety and Professional Services



Reducing PFAS in Your Drinking Water

Introduction

Per- and polyfluoroalkyl substances, or PFAS, are a large group of man-made chemicals that have been used in many industrial processes and consumer products since they were developed in the 1950s. If an environmental contamination event occurs near your home, PFAS may end up in groundwater and place your drinking water at risk. This guide will help you learn about how you can protect your health by reducing the levels of PFAS in your home drinking water.

PFAS can affect health.¹

Exposure to unsafe levels of PFAS in drinking water may result in health effects including:

- ▶ Increased cholesterol.
- ▶ Decreased antibody response.
- ▶ Decreased fertility in women.

Certified Technologies for Reducing PFAS in Home Drinking Water

Certified treatment technologies for removing PFAS and other contaminants from drinking water include granular activated carbon (GAC) filters and reverse osmosis (RO) systems.

GAC Filters



- ▶ In a GAC filter, water runs through small pieces of carbon that act like magnets. PFAS and other organic chemicals stick to the carbon as water passes through.
- ▶ Small-sized pitcher filters, refrigerator and faucet-mounted filters, and large whole-house treatment systems usually use GAC technology.

RO Systems



- ▶ In a RO system, water is pushed through a filter membrane with small pores. The membrane acts like a wall that can stop PFAS and other chemicals from passing through.
- ▶ Residential RO systems are typically set up on a kitchen countertop or in a cabinet below a kitchen sink.

What does "certified" mean?

Certification requires that products meet strict standards. Wisconsin residents are encouraged to select a product certified by the American National Standards Institute (ANSI) and the National Sanitation Foundation (NSF) or other ANSI-accredited third-party certifier. NSF is an independent, accredited organization that tests and certifies products to protect and improve human health. Products that meet [ANSI/NSF Standards 53 and 58](#) are certified to reduce PFAS in drinking water.

Consider Your Needs



The type of filtration device or system you may need will depend upon a variety of factors. This section highlights many of the important considerations you should make before deciding on a specific product.

Is your drinking water at increased risk of PFAS contamination?

If you do not live near a site of environmental contamination, it is unlikely that PFAS are a problem in your drinking water. Residents who live near a site of PFAS contamination should connect with their local municipality and the Department of Natural Resources to learn about available resources for affected residents. To find out whether you live near a PFAS site, [view this map](#).



Private Well Owners

The only way to know whether PFAS are a concern in your drinking water is to have a sample tested at a [certified laboratory](#). This could cost several hundred dollars.



Public Water Supply Users

Connect with your [local water utility](#) to learn about what they may be doing to minimize PFAS. While some water utilities will voluntarily test for PFAS, they are not required to.

Does your drinking water contain other contaminants?

The type of filtration device or system you may need will depend on the types of contaminants present in your water and their levels. PFAS are not the only potential contaminants in your drinking water. In Wisconsin, other common contaminants in groundwater include bacteria, nitrate, and arsenic.



Private Well Owners

[Follow routine tests](#) for bacteria and nitrate, and additional testing for other contaminants if indicated.



Public Water Supply Users

Contact your [local water utility](#) to learn more about the quality of your drinking water.

Which water do you want to filter?

Are you looking to treat only the water you drink or prepare foods with (e.g., kitchen sink water), or also the water that you bathe in? If your water is only affected by PFAS, there likely isn't a need to treat all the water in your home with a point-of-entry (POE) system. POE systems are more important when contaminants may be harmful to touch or breathe in. PFAS do not present these concerns in residential settings and are therefore less important to treat for whole-house use.



Point-of-use (POU) vs. point-of-entry (POE)

Point-of-use (POU) devices treat water from a single outlet, faucet, or fixture. Examples include pitcher, faucet-mounted, and refrigerator filters, as well as countertop RO systems like those pictured on Page 1. **Point-of-entry (POE)** systems, like the one to the left, treat all the water entering a house or a building. They are installed along the main water line that connects to a private well or municipal water supply.



GAC vs. RO Systems: The Differences

Granular Activated Carbon (GAC)



Reverse Osmosis (RO)



| | | |
|---|---|--|
| Which water can the system treat? | GAC systems can treat water used in a pitcher or at a specific faucet (POU), or they can be used to treat water for an entire house (POE). | RO systems are generally used to treat water from a specific faucet (POU). Whole-house (POE) RO systems are available but less common. |
| How costly is the system? | Point-of-use devices like pitchers and faucet-mounted filters, as well as their replacement filter cartridges, are less expensive to purchase up front and replace than RO cartridges and membranes. GAC systems for whole house treatment can be more costly. | A RO system requires more frequent changes of filtration cartridges and RO membranes. In addition, it uses more water than a GAC system, which may increase your water bill. Depending on the quality of your incoming water, you may also need to purchase and maintain additional treatment devices such as a water softener or iron filter. |
| What does the system remove? | GAC systems can remove PFAS and other contaminants, but not nitrate, arsenic, manganese, or microbes like bacteria and viruses. They can, however, remove parasitic cysts like <i>Cryptosporidium</i> and <i>Giardia</i> , as well as undesirable taste and odor compounds. | RO systems remove more contaminants than GAC systems, including nitrate, arsenic, and may more efficiently remove PFAS ² . While RO systems can remove parasitic cysts like <i>Cryptosporidium</i> and <i>Giardia</i> , they are not designed to routinely remove bacteria and viruses. |
| What is the water flow? | A GAC system provides less water flow than a standard water faucet, but greater flow than a RO system. | A RO system provides less water flow than both a standard water faucet and GAC system. |
| How much water is wasted? | GAC POU filters do not waste water. GAC POE systems require occasional backwashing to clean the system. | A residential RO system typically wastes 3 to 5 gallons of water for every gallon of water it treats. |
| How does the system impact the environment? | Captured contaminants stay in the GAC filter until the cartridge is discarded. Contaminated cartridges end up in landfills. | RO systems without a GAC component will concentrate PFAS in the untreated portion of water leaving the system, reintroducing contamination to the environment. |



No matter which system you choose, it will require regular maintenance. Follow manufacturer instructions for routinely replacing filter cartridges and RO membranes. Filters that have reached their capacity will no longer remove PFAS and other contaminants from your water.

Recommendations

Get a certified filter.

- For GAC systems, look for a product that is certified to ANSI/NSF Standard 53.
- For RO systems, look for a product that is certified to ANSI/NSF Standard 58.
- To find a product, view [NSF's product certification listings](#) or contact the NSF Consumer Affairs office at 1-800-673-8010 or info@nsf.org.

RO systems should have a GAC component.

- RO systems without a GAC component can concentrate PFAS in the untreated portion of water leaving the system, reintroducing contamination to the environment.
- When selecting a certified RO system (ANSI/NSF Standard 58), look for an included GAC component certified to reduce PFAS (ANSI/NSF Standard 53).

Find a properly licensed Wisconsin plumber.

- A reputable installer should be used to ensure proper selection, design, installation, operation, and maintenance of any larger filtration system.
- Verify a plumber's credentials by visiting the Wisconsin Department of Safety and Professional Services' [License Look-Up](#).

Proper maintenance is a must!

- Follow manufacturer instructions for routinely replacing filter cartridges and RO membranes.
- Use POU filters with cold water only. Running hot water through your POU filters may compromise filter components. If you need hot filtered water, first collect cold filtered water and then heat the filtered water separately. Boiling unfiltered water will not reduce PFAS and may actually concentrate them.³

Did you know?

NSF standards certify that a filter can reduce levels of two well-studied PFAS compounds, PFOA and PFOS, to below the Environmental Protection Agency's health advisory level of 70 parts per trillion for combined PFOA and PFOS. However, studies have shown that NSF certified devices can remove a wide range of PFAS (not just PFOA and PFOS) to levels well below [Wisconsin's recommended groundwater standards](#); these levels are very low and sometimes undetectable.^{4,5}

References

- ATSDR. Perfluoroalkyls - ToxFAQs. <https://www.atsdr.cdc.gov/toxfaqs/tfacts200.pdf>. Published March 2018.
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- USEPA. Drinking Water Health Advisory for Perfluorooctanoic Acid (PFOA). https://www.epa.gov/sites/production/files/2016-05/documents/pfoa_health_advisory_final_508.pdf. Published May 2016.
- Minnesota Department of Health. [Evaluation of Perfluorochemical Removal by a Small, In-home Filter](#). Published June 2017.
- Patterson C, Burkhardt J, Schupp D, Krishnan ER, Dyment S, Merritt S, Zintek I, Kleinmaier D. [Effectiveness of point-of-use/point-of-entry systems to remove per- and polyfluoroalkyl substances from drinking water](#). *AWWA Wat Sci.* 2019;e1131.

Additional PFAS Information can be found at the links below

- **Environmental Protection Agency (EPA)**
 - <https://www.epa.gov/pfas>
- **Wisconsin Department of Natural Resources (DNR)**
 - <https://dnr.wisconsin.gov/topic/PFAS>
- **Wisconsin Department of Health Services (DHS)**
 - <https://www.dhs.wisconsin.gov/chemical/pfas.htm>
- **Unregulated Contaminant Monitoring Rule 5 (UCMR 5)**
 - <https://www.epa.gov/dwucmr/fifth-unregulated-contaminant-monitoring-rule>

- QUESTION??

ATTACHMENT A

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: DG-24-19

Relating to: Revisions to Wis. Admin. Code chapter NR 809 related to the promulgation of new drinking water maximum contaminant levels for Per- and Polyfluoroalkyl Substances (PFAS) including Perfluorooctanesulfonic acid (PFOS) and Perfluorooctanoic acid (PFOA).

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

The rule will be proposed as a permanent rule.

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to amend ch. NR 809, Wis. Adm. Code, to establish drinking water standards, referred to as Maximum Contaminant Levels (MCLs), for certain Per- and Polyfluoroalkyl substances (PFAS) including the contaminant compounds perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). PFAS contaminants have been identified as emerging contaminants by the EPA and numerous states, including Wisconsin, due to their persistence in and threats to the environment, including surface water and groundwater resources. The impacts to surface water and groundwater sources are threats to public health, welfare and safety in obtaining drinking water. Establishing drinking water standards for certain PFAS contaminants in this rule will protect public health by setting MCLs that may not be exceeded. If MCLs are exceeded, a corrective action plan must be implemented to maintain protection of public health, welfare and safety in drinking water.

Because of sampling conducted pursuant to the EPA's Unregulated Contaminant Monitoring Rule 3 (UCMR 3), the PFAS contaminants PFOA and PFOS were identified in the drinking water at several Wisconsin public water systems. Subsequent environmental investigations throughout the state have identified several PFAS contaminant sources with impacts to the environment including the waters of the state. Additional drinking water monitoring of PFAS contaminants at several Wisconsin public water supply systems since completion of UCMR 3 has identified additional PFAS impacts to several drinking water sources.

Adverse health effects have been associated with exposure to PFOA and PFOS contaminants based on several studies. Adverse health effects include increase in cholesterol, liver damage, thyroid disease and a decrease in fertility and birth weight. The EPA and international studies have classified PFOA and PFOS as possibly carcinogenic to humans.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter NR 809, Wis. Adm. Code, promulgated consistent with the Safe Drinking Water Act, contains drinking water standards (MCLs) for more than 90 regulated contaminants. The rule amendment to add certain PFAS contaminants, including PFOA and PFOS, to ch. NR 809, Wis. Adm. Code, is consistent with the existing policy in ch. NR 809, Wis. Adm. Code, to establish MCLs to provide minimum standards for the protection of public health, safety and welfare in the obtaining of safe drinking water. The amendment of ch. NR 809, Wis. Adm. Code, is the most efficient and effective policy alternative to add certain PFAS contaminants as regulated contaminants for the protection of public health, safety and welfare.

A policy alternative would be to wait until EPA promulgates MCLs for PFAS substances. EPA's PFAS action plan states that, by the end of the year, EPA will decide whether they will begin the process to promulgate PFOS and PFOA MCLs. Following this process, it may take five plus years for EPA and DNR to promulgate such a standard.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Under s. 281.17(8)(a), "the department may establish, administer and maintain a safe drinking water program no less stringent than the requirements of the safe drinking water act, 42 USC 300f to 300j-26." Establishment of drinking water MCLs for certain PFAS contaminants, including PFOA and PFOS, is consistent with the objectives of the EPA's Safe Drinking Water Act (Title 40, Chapter 1 Subchapter D Part 141 National Primary Drinking Water Regulations) and ch. NR 809, Wis. Adm. Code. The purpose of ch. NR 809 is to establish minimum standards and procedures for the protection of public health, safety and welfare in obtaining safe drinking water.

Ch. NR 809, Wis. Adm. Code, is adopted under authority granted in chs. 280 and 281, Wis. Stats. Related statutory authority includes:

Section 280.11(1), Wis. Stats., Pure drinking water. Provides department authority, after a public hearing, to prescribe, publish and enforce minimum reasonable standards and rules and regulations for methods to be pursued in the obtaining of pure drinking water for human consumption and the establishing of all safeguards deemed necessary in protecting the public health against the hazards of polluted sources of impure water supplies intended or used for human consumption. The department has general supervision and control of all methods of obtaining groundwater for human consumption including sanitary conditions and generally to prescribe, amend, modify or repeal any rule or regulation theretofore prescribed and shall do and perform any act deemed necessary for the safeguarding of public health.

Section 281.12, Wis. Stats., provides that the department has general supervision and control over the waters of the state and is to carry out the planning, management and regulatory programs necessary for implementing the policy and purpose of ch. 281, Wis. Stats., including to

protect, maintain and improve water quality. The department also shall formulate plans and programs for the prevention and abatement of water pollution and for the maintenance and improvement of water quality.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The Department estimates that 925 hours of state employee time will be required to complete the promulgation of the proposed rules.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule will affect the following entities:

- Municipal community water systems (cities, townships, sanitary districts)
- Other-than-municipal community water systems (mobile home parks, apartment buildings, condominium associations)
- Non-transient Non-community water systems (small businesses with 25 or more employees that are not on a municipal source)
- Laboratories certified to perform PFOS and PFOA analysis in drinking water
- Wisconsin Department of Natural Resources
- Wisconsin Department of Health Services
- Wisconsin Department of Safety and Professional Services
- Treatment installation businesses

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The process for the proposed amendment to ch. NR 809, Wis. Adm. Code, to establish certain MCLs for PFAS, including PFOA and PFOS standards, is consistent with the process for establishing rules for other drinking water contaminants regulated under the federal EPA Safe Drinking Water Act, specifically Title 40 - Protection of the Environment; Chapter 1 - Environmental Protection Agency; Subchapter D - Water Programs. The department has a primacy agreement with the EPA to implement the Safe Drinking Water Act.

As a result of the PFOA and PFOS findings from EPA's UCMR 3 national monitoring of public water supply systems, the EPA issued a PFOA and PFOS Health Advisory Level (HAL) in 2016. The PFOA and PFOS HAL was established based upon laboratory animal and epidemiological human studies indicating adverse health effects related to PFOA and PFOS exposure. Adverse health effects included developmental effects of fetuses during pregnancy or to breastfed infants, cancer, liver effects, immune effects and thyroid effects and other health effects.

In February 2019, the EPA released a Per- and Polyfluoralkyl Substances (PFAS) Action Plan. One of the four primary actions in the PFAS Action Plan is initiating steps to evaluate the need for a MCL as part of the Safe Drinking Water Act. The EPA is evaluating criteria to propose a

national drinking water regulatory determination for PFOA and PFOS. The EPA is highlighting key PFOA and PFOS information gathered to date and additional data needs. The action plan identifies an anticipated timeline for a PFOA and PFOS regulatory determination in 2019 to proceed with the federal regulatory process.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have an economic impact on small businesses):

We anticipate the economic impact of this rule to stakeholders including small businesses to be significant.

Testing will be required at a frequency similar to other synthetic organic compounds having Safe Drinking Water Act MCLs. This testing would occur at least every six years, but may be as often as every quarter for a small subset of public water systems, depending upon their levels of PFAS contaminants detected. This will affect approximately 2,000 public water systems. Currently the cost of this analysis is \$325 per sample.

Approximately 15 to 30 systems would need to treat their water or drill a new well (based on data from a neighboring state, Michigan, which did sampling for PFAS and PFOS at 1700 public water systems). The number of systems needing to treat their water or drill a new well may go up if additional PFAS contaminants with MCLs are detected at Wisconsin public water systems. The cost of treatment at a large municipal public water system could be at least 25 million dollars, however that figure could be much lower at smaller systems. Some systems may also choose to drill a new well if it is possible to find an uncontaminated aquifer. The typical cost of a well at a non-transient non-community system is approximately \$11,000.

The economic benefits of the avoided cost of impacts on human health may greatly outweigh the costs of treating the water or drilling a new well. The department is still assessing the extent of the economic impact of the rule, but it is projected to be significant in the first few years of implementation and more moderate in later years once initial up-front treatment installation costs are covered.

9. Anticipated number, month and locations of public hearings:

The department anticipates holding four concurrent public hearings in August 2021. Hearing cities are expected to be: Eau Claire, Wausau, Green Bay, Madison. Video conferencing will be used to hold all hearings concurrently, reducing DNR staff time and travel costs. These four locations are expected to provide convenient access to public hearings for interested parties around the state.

Contact Person: Adam DeWeese (608) 264-9229



Preston D. Cole, Secretary

8/24/19
Date Submitted

ATTACHMENT B



P.O. Box 927
Madison, WI 53701-0927
Telephone (608) 283-1788
Facsimile (608) 283-1709

December 7, 2021

Filed Via Email

Adam.DeWeese@wisconsin.gov

DNRAAdministrativeRulesComments@wisconsin.gov

Department of Natural Resources
Attn: Adam DeWeese - DG/5
P.O. Box 7921
101 S. Webster Street
Madison, WI 53707-7921

**RE: Comments on DG-24-19
Revisions to ch. NR 809 related to the promulgation of new drinking water MCLs
for PFOA and PFOS**

Dear Mr. DeWeese:

These comments are filed on behalf of the Municipal Environmental Group - Water Division (MEG - Water). MEG - Water is an association of 69 municipal water systems that provides input on legislative and regulatory issues involving water supply.

MEG - Water supports the establishment of federal drinking water standards for PFAS but does not support the Department's establishment of state standards at this time. EPA has made it clear that it is moving ahead to regulate PFAS in drinking water. On March 3, 2021, EPA published its final regulatory determination to regulate PFOA and PFOS under the Safe Drinking Water Act (SDWA). On October 18, 2021, EPA announced its PFAS Strategic Roadmap which included issuing a proposed rule establishing federal maximum contaminant levels (MCLs) for PFOA and PFOS by fall 2022 with a final rule issued by fall 2023. MEG - Water asks the Department to wait for EPA to promulgate federal drinking water MCLs before proceeding to adopt state standards.

When EPA promulgates federal drinking water standards, EPA follows the SDWA standard-setting process. Under the SDWA standard-setting process, a health goal is set that considers risks to the most sensitive populations including infants, pregnant women, and the immunocompromised. The next step sets the enforcement standard (the MCL) to be as close to the health goal as feasible, considering available treatment technologies and costs. This cost-benefit analysis is a critical component of the SDWA standard-setting process.

Under the SDWA standard-setting process, drinking water standards are not set at the lowest possible level regardless of cost, treatment feasibility, and relative health benefit returns. The SDWA cost-benefit analysis provides assurance that the health benefits achieved by a new

standard justifies the cost of meeting that standard, and that comparable health benefits could not be achieved with a higher standard that would be less costly to meet.

The Department did not follow the SDWA standard-setting process in proposing the state standards for PFOA and PFOS in Rule No. DG-24-19. Instead, the Department set the proposed standards for PFOA and PFOS based on the Wisconsin Department of Health Services' proposed groundwater standards without conducting a cost-benefit analysis of the proposed state standards. The Department did not consider whether comparable health benefits could be achieved with a higher standard and a lower cost.

MEG - Water is concerned with the Department's proposal to establish drinking water standards without weighing the relative costs and benefits of those standards and the precedent that this may set for establishing future state drinking water standards for other emerging contaminants. MEG - Water questions the Department's authority to establish state drinking water standards in this way. While Wis. Stat. § 281.17(8)(a) provides that "the department may establish, administer and maintain a safe drinking water program no less stringent than the requirements of the safe drinking water act, 42 USC 300f to 300j-26," this subsection does not provide permission for the Department to set state drinking water standards where there is no comparable federal drinking water standard.

Under Wis. Stat. § 227.10(2m) an agency is prohibited from implementing any standard unless that standard "is explicitly required or explicitly permitted by statute or by a rule." To MEG - Water's knowledge, no statutory or regulatory authority explicitly permits the Department to establish a state drinking water standard in the absence of a federal drinking water standard. This likely explains why the Department has never before adopted a drinking water standard without there first being a federal drinking water standard in place.

MEG - Water supports the development and implementation of federal PFAS MCLs using the SDWA rulemaking process. MEG - Water also supports the Department's efforts to obtain additional information about the presence of PFAS in Wisconsin, to provide public information about PFAS, and to encourage action where PFAS levels are elevated. But MEG - Water does not support establishing state PFAS standards in the absence of federal drinking water standards nor in a manner that is inconsistent with the SDWA standard-setting process and that does not consider the relative costs and benefits of the proposed standards.

Public water systems are charged with protecting public health and they take this responsibility extremely seriously. Public water systems currently face a host of expensive challenges to ensure the continued protection of public health – like eliminating lead service lines, replacing old infrastructure, implementing corrosion control treatment to prevent leaching from lead pipes, and treating for contaminants like radium, arsenic, and nitrate. At the same time, there are concerns about public water supply remaining affordable.

As we respond to emerging contaminants, like PFAS, it is important that these emerging contaminants receive the same scrutiny and analysis as was given to the contaminants that already have MCLs. This is best done by having EPA develop federal drinking water standards for PFAS using the SDWA standard-setting process. If drinking water standards for PFAS are

established based upon the same uniform and consistent methodology used to establish standards for other drinking water contaminants, public water systems and the public at large can be assured that PFAS and all drinking water contaminants with federal standards are receiving the attention and resources that they deserve.

Thank you for this opportunity to provide the Department with our additional input. If you have any questions, please do not hesitate to contact us.

Sincerely,

MUNICIPAL ENVIRONMENTAL GROUP – WATER DIVISION



Lawrie J. Kobza
Legal Counsel

cc: MEG - Water Members (*via email*)

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