



Process to Adopt State Maximum Contaminant Levels

September 2020

The Department of Health (department) recommends that the State Board of Health (board) establish in rule a process to adopt state maximum contaminant levels (state MCLs) for unregulated contaminants.

A state MCL is the concentration of a contaminant or group of contaminants, without a federal maximum contaminant level (MCL) established to protect public health. If exceeded, a state MCL triggers required treatment, monitoring, public notification and other associated requirements.

To date, the U. S. Environmental Protection Agency (EPA) has not taken regulatory action to set an MCL for Poly- and Perfluoroalkyl Substances (PFAS), which are chemicals used in industrial and consumer products, such as carpeting, apparel, upholstery, food paper wrappings, fire-fighting foams, and metal plating worldwide since the 1950s.

Draft—New Section—315, State Maximum Contaminant Levels

Process to consider adopting a state MCL

The draft rule identifies the process and criteria used to evaluate an unregulated contaminant for possible adoption of a state MCL:

- ◆ Use the criteria in section 315, subsection (1) of the rule to develop a State Action Level (see [Criteria to develop a SAL fact sheet](#)).
- ◆ Whether regulating the contaminant presents a meaningful opportunity to reduce exposures of public health concern for persons served by public water systems.
- ◆ The need for an enforceable limit to achieve uniform protection of public health across public water systems.
- ◆ The need for an enforceable limit to support source investigation and clean-up of a contaminant in drinking water supplies by responsible parties.

State Board of Health Actions

- ◆ The Board will consider the Departments finding and recommendation to adopt a state MCL. If the Board decides to adopt a state MCL, the Board will follow the rulemaking procedures under the Administrative Procedures Act.
- ◆ If EPA adopts a federal MCL for which the board has adopted a SAL or state MCL, the department will evaluate the federal MCL to determine if the standard is more or less protective of human health than the SAL or state MCL.
- ◆ A federal MCL supercedes a SAL.
- ◆ A federal MCL supercedes a state MCL if it is more stringent than the state MCL.
- ◆ Upon the department's determination that the federal MCL is less protective of public health, the board may take one of the following actions:
 - ◆ Retain the state MCL; or
 - ◆ Replace the state SAL with a state MCL using the process in subsection (6) of section 315 in the rule.

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