

**RHODE ISLAND GOVERNMENT REGISTER  
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF HEALTH**

**Title of Rule:** Public Drinking Water

**Rule Identifier:** 216-RICR-50-05-1

**Rulemaking Action:** Proposed Amendment

**Important Dates:**

Date of Public Notice: March 19, 2024

Hearing Date: April 1, 2024

End of Public Comment: April 18, 2024

**Rulemaking Authority:**

R.I. Gen. Laws § 46-32-1 et seq.

**Summary of Rulemaking Action:**

In accordance with R.I. Gen. Laws § 42-35-2.7 and the PFAS in Drinking Water, Groundwater, and Surface Waters Act, R.I. Gen. Laws § 46-32-1 et seq. (PFAS Act), as amended in June 2023, notice is hereby given that the Rhode Island Department of Health (RIDOH) proposes amendments to the rules and regulations for Public Drinking Water (216-RICR-50-05-1) for the regulation of per- and polyfluoroalkyl substances (PFAS) in drinking water.

The PFAS Act requires the Director of RIDOH to, on or before September 1, 2024, either: “(1) [p]ublish a notice of proposed rulemaking regarding the regulation of PFAS compounds under the rules and regulations pertaining to public drinking water as a class or subclasses; or (2) [p]ublish a notice of decision not to regulate PFAS compounds as a class or subclasses under the rules and regulations pertaining to public drinking water that includes, at a minimum, an identification of all legal, technical, or other impediments to regulating PFAS compounds as a class or subclasses and a detailed response to all public comments received.” R.I. Gen. Laws § 46-32-4(b). If the Director decides to regulate PFAS as a class or subclass, then the PFAS Act requires the Director to file two different rules—(1) a rule regarding adoption of the interim drinking water standard of 20ppt as a maximum contaminant level (MCL) (a final version of which must be filed by June 1, 2024); and (2) a rule regarding the regulation of PFAS as a class or subclass (initial public review for which must begin by February 1, 2024 and a final rule which must be published by June 30, 2025). R.I. Gen. Laws §§ 46-32-3 and 46-32-4.

The Director has decided to regulate PFAS as a class/subclass. RIDOH is proposing to file one rule, by June 1, 2024, that satisfies both rules required to be filed by the PFAS Act. Specifically, RIDOH is proposing to establish a final MCL of 20ppt for the total of the 6 PFAS contaminants identified in the PFAS Act: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and perfluoroheptanoic acid (PFHpA), and perfluorodecanoic acid (PFDA). RIDOH believes that regulating these 6 PFAS constitutes regulating PFAS as a class/subclass based on the data and information RIDOH has collected from water systems in the State to date and the analysis it developed a few years ago to support draft regulations that were never published. RIDOH's data indicate that those 6 PFAS are the only PFAS detected in Rhode Island drinking water at levels that are expected to significantly impact human health. RIDOH believes that regulating the 6 PFAS named in the statute is the best approach to reduce human health risks from PFAS.

RIDOH chose an approach to regulating PFAS that extends the interim drinking water standard for PFAS of 20ppt established in the PFAS Act because public water systems have had to work to come into compliance with the interim standard and it does not make sense to make them meet a new set of rules at this time. The federal Environmental Protection Agency (EPA) is expected to publish a final rule for PFAS in 2024, which RIDOH will need to adopt; EPA's rule, as proposed, would require compliance three years after promulgation.

#### **Additional Information and Public Comments:**

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until April 18, 2024 by contacting the appropriate party at the address listed below:

Zachary Garceau  
Department of Health  
3 Capitol Hill  
Providence, RI 02908  
zachary.garceau@health.ri.gov

#### **Public Hearing:**

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.5, to consider the proposed amendment shall be held at which time and place all persons interested therein will be heard. This hearing is subject to R.I. Gen. Laws Chapter 42-46, Open Meetings.

**Public Hearing Information:**

Date: April 1, 2024

Time: 3:00 P.M.

Location: 1 Capitol Hill

Department of Administration Building, 2nd Floor

Conference Room A

Providence, RI, 02908

The place of the public hearing is accessible to individuals with disabilities. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-408-2747 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting. For questions regarding available parking, please contact the agency staffperson listed above.

**Regulatory Analysis Summary and Supporting Documentation:**

In development of this rule, consideration was given to:

1. Alternative approaches;
2. Overlap or duplication with other statutory and regulatory provisions; and
3. Significant economic impact on small business.

No alternative approach, duplication or overlap was identified based on available information. RIDOH has determined that the benefits of the rule justify its costs.

For full regulatory analysis or supporting documentation contact the agency staffperson listed above.