



Delaware PFOA and PFOS MCL Implementation Plan

The below is the proposed implementation plan for the maximum contaminant levels (MCL) as required by Delaware House Bill 8 (HB-8), signed in October 2021.

Timeline

- February 2022 – Begin stakeholder engagement
- March – May 2022 – Continue stakeholder conversations, hold first public meeting for input and develop formal regulatory language
- June 2022 – Finalize regulatory proposal and submit to Registrar
- July 2022 – Publish as proposed in Delaware Register of Regulations
- August 2022 – Hold additional public meeting, if necessary, review public comment and update regulations as needed
- September – October 2022 – Publish as final, or republish as proposed
- Spring 2023 – First required samplings by water systems

Proposed Regulatory Framework and Requirements

- MCL
 - These will be primary MCLs in the Delaware Regulations for Public Drinking Water Systems:
 - PFOS – 14 parts per trillion
 - PFOA – 21 parts per trillion
 - If the sum of PFOS and PFOA exceeds 17 parts per trillion (the sum of approximately 50% of each individual MCL) this will also be considered an exceedance.
 - MCL will become effective 6 months after final publication in the register
- Sampling
 - Initial sampling must be conducted within 6 months of effective date of regulations
 - ODW is developing training and information that will be available to water systems prior to the effective date.
 - Community water systems will be required to sample annually thereafter.
 - If PFOS and/or PFOA are detected above a standard laboratory minimum detection limit (MDL), the schedule will move to quarterly sampling.
 - If repeat samples collected immediately after initial positive return a non-detect, and/or the positive can be attributed to lab contamination or other

- technical issues, the system may request DPH approval to return to annual sampling.
 - 4 consecutive quarters of non-detect will allow a system to return to annual sampling
 - Miscellaneous public systems will be exempt from sampling requirements unless they are identified as being at risk of contamination, based on known or suspected contamination as determined by DNREC and DPH.
- Corrective Actions
 - Exceedance of MCL from one sampling event will be considered an exceedance. Immediate next steps may include:
 - Exceedances of less than 2x the MCLs will be allowed resampling of source water and post-treatment sample if treatment is in place, prior to required actions
 - Exceedances greater than 2x MCLs will necessitate immediate response, possibly including temporary alternate water source, installation of treatment, etc.
 - Increasing trends or concentrations equal to or greater than 50% of any of the three MCLs (PFOA => 10.5 ppt, PFOS => 7 ppt, combined PFOA/PFOS => 8.5 ppt) will trigger outreach to the system to discuss treatment options, funding, etc., as a preventative measure.

Associated Actions and Plans

- DPH and DNREC will continue to coordinate on sampling and data to ensure resources and focus is on areas and water systems with the most potential risk for contamination.
- DPH and DNREC are working with previously sampled water systems to ensure there is support for systems identified as at risk or known to have contamination in advance of MCL implementation with outreach continuing as of the regulatory start date
- DPH and DNREC are collaborating on a PFAS mobile response unit to support systems with exceedances. This will be a temporary solution to provide immediate support while systems work through implementation of permanent solutions. The system is currently in the RFP process with an implementation expected in the Summer/Fall of 2022.

References

ATSDR PFAS MRL: <https://www.atsdr.cdc.gov/pfas/resources/mrl-pfas.html>

Delaware House Bill 8 : <https://legis.delaware.gov/BillDetail/48449>

DHSS-DPH Regulations Governing Public Water Systems:

[https://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Health%20Systems%20Protection%20\(HSP\)/4462.shtml](https://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Health%20Systems%20Protection%20(HSP)/4462.shtml)
