

RHODE ISLAND DEPARTMENT OF HEALTH

Decision in Response to a Petition
to Adopt 20 ppt for the Sum of PFOA, PFOS, PFHxS, PFHpA, and PFNA as an MCL and
to Begin a Process of Promulgating a Treatment Technique or MCL for the Entire PFAS Class

Nicole Alexander-Scott, MD, MPH

Director of Health

March 11, 2019

The Rhode Island Department of Health (RIDOH) received a Petition (Petition) from the Conservation Law Foundation and the Toxics Action Center (collectively, Petitioners) to: (i) adopt twenty (20) parts per trillion (ppt) for the sum of PFOA, PFOS, PFHxS, PFHpA and PFNA as a Maximum Contaminant Level (MCL); and (ii) begin a process of promulgating a treatment technique standard or MCL for the entire PFAS class in public water supplies pursuant to R.I. Gen. Laws § 46-13-18.

That Petition, dated February 7, 2019, was received by RIDOH on February 7, 2019 via email.

RIDOH shares the Petitioners' concerns about the potential impacts of PFAS in public water supplies and understands the desire to regulate this class of chemicals and establish appropriate protective standards. Our concerns and desires align with the research and analysis that RIDOH and the Rhode Island Department of Environmental Management (RIDEM) have completed in partnership, as further described below. However, at this time, RIDOH lacks sufficient quantitative and qualitative data upon which to base appropriate regulations.

In response to contamination in surrounding states, in 2017 RIDOH partnered with RIDEM and Brown University on a PFAS sampling study of small water systems that are located near the types of facilities that may have used PFAS, using the U.S. Environmental Protection Agency's (EPA) health advisory of 70 ppt for the sum of PFOA and PFOS. RIDOH and Brown University collected more than 60 samples from 40 water systems, and RIDOH's State Health Laboratories analyzed the samples for nine (9) PFAS compounds. One public water system, Oakland Association in Burrillville, had levels higher than 70 ppt and one source well in North Providence had levels between 35 and 70 ppt. In response, RIDEM tested private wells in Burrillville and RIDOH and Rhode Island Infrastructure Bank are assisting the town with a State Revolving Fund loan to connect to an alternate water system. The North Providence source well was replaced by municipal water.

From the 2017 sample study, RIDOH found that most of the water systems sampled did not have PFAS detections in their wells and those that did primarily had PFOA and PFOS with lesser levels of other analyzed PFAS. RIDEM found that the fire station was the likely source of the PFAS contamination in Oakland, a similar finding to other states in New England, with which RIDOH coordinates about PFAS at least monthly, in addition to EPA, Association of State Drinking Water Administrators, Environmental Council of the States, and State Environmental Health Directors, via regional conference calls and emails. Through this coordination, RIDOH has also learned that some states have found PFAS in school wells they believe come from routine floor waxes that are drained to the ground or onsite septic systems. Because of these findings about new potential sources of PFAS, this spring RIDOH will next sample wells that are potentially vulnerable to those sources. RIDOH will also sample all water systems that were sampled under EPA's Third Unregulated Contaminant Monitoring Rule (UCMR3) because the RIDOH State Health Laboratory is able to analyze PFAS with minimum reporting limits less than the UCMR3 reporting limits. During this study, RIDOH will follow EPA's health advisory of 70 ppt for the sum of PFOA and PFOS when requiring corrective action such as treatment and public notice, and half of EPA's health advisory (35 ppt) for requiring follow-up sampling.

RIDOH has determined that additional research and analysis are necessary to better assess the potential impacts of PFAS to Rhode Island public water systems before promulgating regulations for these compounds. RIDOH agrees that it may be necessary to establish a new MCL protective standard in the future, which would be based on the outcomes of the second round of sampling and evolving science from the EPA and other states. If this sampling identifies public systems with concerning PFAS levels, such as a combined concentration of PFOA and PFOS exceeding 70 ppt, RIDOH has the authority and

will regulate those systems to assure the public's health. RIDOH will continue to assess the evolving scientific literature on this complex subject and examine regulatory determinations made by other states. RIDOH also continues to urge the EPA to invest the necessary resources to identify appropriate, scientifically-based regulations to measure and mitigate the impact of PFAS.

Given the current scientific uncertainties, RIDOH believes it is appropriate to wait for more information, including the regulatory decisions of EPA and other states and its own analysis of local systems, prior to issuing any decision on whether to establish an MCL and what that MCL should be.

Regarding the Petitioners' request that RIDOH begin a process of promulgating a treatment technique or MCL for the entire PFAS class, RIDOH has determined that beginning such a process is not appropriate at this time. The efficacy of various treatment technologies on the many forms of PFAS compounds is unknown, and methods to measure performance are not readily available. Further, RIDOH typically provides regulated entities with preliminary information regarding the potential costs of compliance before adopting new compliance measures; such a notification provides regulated entities with a business context within which recommended modifications should be considered. Currently, it would be impossible to evaluate potential compliance costs because of insufficient information.

For the reasons stated above, at this time RIDOH will not adopt an MCL for the sum of PFOA, PFOS, PFHxS, PFHpA and PFNA, nor begin a process of promulgating a treatment technique or MCL for the entire PFAS class in public water supplies.

This Decision will be filed with the Rhode Island Department of State and is a final action of RIDOH, subject to judicial review.

Thank you.



Nicole Alexander-Scott, MD, MPH
Director, Rhode Island Department of Health

March 11, 2019
Date