



PFAS WORKGROUP DECLINES TO RECOMMEND ADOPTION OF MCLS December 2021

On December 1, the Virginia Department of Health's PFAS Workgroup released its [final report](#), which contains findings and recommendations related to the occurrence of PFAS in the Commonwealth's public drinking water. The report represents the culmination of over 18 months of work by many VMDWA Members and other stakeholders, as well as the Virginia Department of Health (VDH)-Office of Drinking Water and the Virginia Department of Environmental Quality (DEQ).

Pursuant to HB586, Acts of the General Assembly Chapter 611 (2020), VDH convened the Workgroup to complete a detailed literature review, evaluate other state regulatory approaches, and conduct/assess an occurrence study at no more than 50 waterworks and source waters. HB586 includes one optional provision: the Workgroup may recommend specific maximum contaminant levels (MCLs).

Forty-five waterworks participated in the occurrence study, collecting a total of 63 water samples from one or more locations. Only 15 of the 63 samples contained PFAS quantities above the practical quantitation level of 3.5 parts per trillion (ppt). The other 48 samples did not contain any PFAS or, if PFAS were present, they were below the PQL.

In the end, the Workgroup did not recommend any specific MCLs for the following reasons:

- The study was not a comprehensive evaluation of the extent or nature of PFAS contamination in public drinking water across the state and did not consider what the implications would be for setting a MCL for one or more PFAS.
- The Code of Virginia requires the Board of Health to consider protection of public health and the financial impact of regulations in the rulemaking process.
- EPA made a regulatory determination to establish MCLs for PFOA and PFOS. As a primacy state under the Safe Drinking Water Act, Virginia will have to adopt MCLs for these PFAS that are no less stringent than EPA's when they become effective. EPA has committed to issue a proposed regulation in Fall 2022 and a final regulation in Fall 2023.
- Virginia has historically relied on EPA to establish standards for drinking water contaminants, then adopted those standards in the Board of Health's regulations for waterworks.

The Workgroup identified the need for additional sampling to adequately assess PFAS occurrence. The Workgroup also found that for VDH to effectively promulgate MCLs, the Commonwealth needs to provide adequate resources (time, money, and staff) to VDH for the rulemaking process. To comply with the Administrative Process Act, an MCL should be based on toxicology and take into consideration such things as treatment costs, impacts from moving PFAS from one media to another, incremental costs, and downstream effects. The rulemaking also needs to consider impacts on small waterworks, including treatment options, costs, and how to pay when treatment is or would be required.