

HF1283 - 0 - PFAS Water Quality Standards; PFOS Rules

Chief Author: **Rick Hansen**
 Committee: **Environment and Natural Resources Finance And Policy**
 Date Completed: **3/2/2023 1:29:07 PM**
 Lead Agency: **Pollution Control Agency**
 Other Agencies:
 Administrative Hearings Health Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Health Dept						
General Fund		-	63	92	-	-
Pollution Control Agency		-	-	-	-	-
Environmental		-	-	-	-	-
State Total						
Administrative Hearings		-	-	-	-	-
General Fund		-	63	92	-	-
Environmental		-	-	-	-	-
Total		-	63	92	-	-
Biennial Total				155		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Health Dept						
General Fund		-	.35	.35	-	-
Pollution Control Agency		-	-	-	-	-
Environmental		1.35	1.85	1.85	-	-
Total		1.35	2.2	2.2	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 3/2/2023 1:29:07 PM

Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Health Dept						
General Fund		-	63	92	-	-
Pollution Control Agency		-	-	-	-	-
Environmental		-	-	-	-	-
Total		-	63	92	-	-
Biennial Total				155		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	5	52	-	-
Health Dept						
General Fund		-	63	92	-	-
Pollution Control Agency		-	-	-	-	-
Environmental						
Expenditures		218	293	318	-	-
Absorbed Costs		(218)	(293)	(318)	-	-
Total		-	68	144	-	-
Biennial Total				212		-
2 - Revenues, Transfers In*						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	5	52	-	-
Health Dept						
General Fund		-	-	-	-	-
Pollution Control Agency		-	-	-	-	-
Environmental		-	-	-	-	-
Total		-	5	52	-	-
Biennial Total				57		-

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 Committee: **Environment and Natural Resources Finance And Policy**
 Date Completed: **3/2/2023 1:29:07 PM**
 Agency: **Pollution Control Agency**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Environmental	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Environmental	1.35	1.85	1.85	-	-
Total	1.35	1.85	1.85	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 2/15/2023 8:55:30 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Environmental		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Environmental						
Expenditures		218	293	318	-	-
Absorbed Costs		(218)	(293)	(318)	-	-
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Environmental		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

A bill for an act requiring adoption of rules establishing the PFOA and PFOS water quality standards by July 1, 2026, and requiring by July 1, 2025, the commissioner of health must amend the health risk limit for perfluorooctane sulfonate (PFOS) in Minnesota Rules, part 4717.7860, subpart 15, so that the health risk limit does not exceed 0.015 parts per billion.

Assumptions

1. The costs reflected in this analysis only address Minnesota Pollution Control Agency (MPCA) costs and are over and above current program appropriations to the MPCA.
2. We assume that the requirements of this law will be met by the MPCA's currently in progress rulemaking project to update the Class 1 water quality standards (WQS). The Class 1 WQS apply to all groundwater and surface waters designated as sources of drinking water, and MPCA has already made clear its intent to add WQS for six PFAS in this rulemaking.
3. The Class 1 rulemaking process began with a Request for Comment (RFC) published on November 29, 2021. A second RFC is planned for FY23, and the rulemaking will be completed prior to the July 1, 2026 deadline.
4. This is assumed to be a major rulemaking, so expenditures were estimated based on a rulemaking of similar scope and size, as laid out in the Minnesota Rulemaking Manual prepared by MDH and adjusted based on MPCA's past rulemaking experiences. Costs were apportioned across fiscal years depending on timing of process steps. Since this would be a new numeric water quality standard, peer review is required, per statute. The MPCA prefers to reimburse reviewers for their time spent reviewing the technical documents. MPCA estimates 3-5 reviewers at \$500-\$1500 each.

Expenditure and/or Revenue Formula

Rulemaking FTE related costs:

- Attorney Costs (\$148/hour x 135 hours x 3 years) = \$59,940 or \$19,980 for each fiscal year FY23, FY24 and FY25
- Rule Coordinator staff (0.25 FTE x \$140,000/FTE in FY23 and 0.75 FTE x \$140,000/FTE in FY24 and FY25) = \$245,000 or \$35,000 in FY23 and \$105,000 in each FY24 and FY25.
- Water quality standards technical staff (1.0 FTE x \$140,000/FTE x 3 years) = \$420,000 or \$140,000 for each fiscal year FY23, FY24 and FY25
- Communications staff (0.1 FTE x \$140,000/FTE x 3 years) = \$42,000 or \$14,000 for each fiscal year FY23, FY24 and FY25

Total rulemaking costs= \$766,940 or \$208,980 and 1.35 FTE in FY23 and \$278,980 and 1.85 FTE for each FY24 and FY25

Rulemaking administrative costs:

- Office of Administrative Hearing costs (filing fees associated with the eComments site, ALJ review time, hearing costs) = \$45,000 (\$5,000/year in FY23 and FY24, \$35,000 in FY25)
- State Register costs (publication of all associated notices) = \$7,890 (Or \$2,630/year split between FY23, FY24, and FY25)
- Miscellaneous expenses (mailings/copying/transcripts) = \$3,930 (Or \$1310/year split between FY23, FY24, and FY25)
- Peer review costs = \$5,000 (FY24)

Total rulemaking administrative costs: \$61,820 or \$8,940 in FY23, \$13,940 in FY24, and \$38,940 in FY25)

*The annual cost of 1.0 FTE is \$140,000 in FY2023-2027. Annual costs for 1.0 FTE include salary, fringe, and non-specialized employee support costs (work space, computer and office supplies, office equipment, local travel, etc.)

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

N/A

References/Sources

MPCA Staff

Agency Contact: Melissa Lewis 651-757-2817

Agency Fiscal Note Coordinator Signature: John Allen

Phone: 651-757-2185

Date: 2/14/2023 2:44:15 PM

Email: john.j.allen@state.mn.us

HF1283 - 0 - PFAS Water Quality Standards; PFOS Rules

Chief Author: **Rick Hansen**
 Committee: **Environment and Natural Resources Finance And Policy**
 Date Completed: **3/2/2023 1:29:07 PM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Chloe Burns **Date:** 3/2/2023 1:09:11 PM
Phone: 651-297-1423 **Email:** chloe.burns@lbo.mn.gov

State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings		-	5	52	-	-
Total		-	5	52	-	-
Biennial Total				57		-
2 - Revenues, Transfers In*						
Administrative Hearings		-	5	52	-	-
Total		-	5	52	-	-
Biennial Total				57		-

Bill Description

HF1283, Sec. 1, provides for the Minnesota Pollution Control Agency (MPCA) to conduct rulemaking to adopt rules establishing water quality standards for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS).

HF1283, Sec. 2, provides for the Minnesota Department of Health (MDH) to conduct rulemaking to amend the rules for health risk limits for perfluorooctane sulfonate (PFOS).

Assumptions

The Office of Administrative Hearings (OAH) has used MPCA's assumption that administrative costs for this rulemaking will total \$61,820 divided across FY2023, FY2024, and FY2025. Of the estimated rulemaking administrative cost amount of \$61,820, \$5,000 is for the estimated 20 hours of administrative law judge (ALJ) time in FY2024, and \$40,000 is for the estimated 163 hours of ALJ time in FY2025.

Based on past practices, OAH assumes that rulemaking required of MDH to amend the health risk limit for PFOS in Minn. R. 4717.7860, supb. 5, would require a medium rulemaking under chapter 14 which requires an estimated 50 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$134,876, \$12,250 is for the estimated 50 hours of ALJ time for a medium rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

Expenditure and/or Revenue Formula

MPCA - Estimated 183 total hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 1, PFAS Water Quality Standards = 20 hours x \$245/hr = \$5,000 charged to MPCA in FY2024 plus 163 hours x \$245/hr = \$40,000 charged to MPCA in FY2025, pursuant to the requirements of Minn. Stat. § 14.53.

MDH - Estimated 50 hours of ALJ time for rulemaking activities related to implementing the requirements of Sec. 2, Health Risk Limit; Perfluorooctane Sulfonate = 50 hours x \$245/hr = \$12,250 charged to MDH in FY2025 pursuant to the requirements of Minn. Stat. § 14.53.

Long-Term Fiscal Considerations

The costs associated with the rulemaking activities are a one-time occurrence.

Local Fiscal Impact

References/Sources

Agency Contact: Denise Collins

Agency Fiscal Note Coordinator Signature: Denise Collins

Phone: 651-3617875

Date: 3/1/2023 5:54:41 PM

Email: denise.collins@state.mn.us

HF1283 - 0 - PFAS Water Quality Standards; PFOS Rules

Chief Author: **Rick Hansen**
 Committee: **Environment and Natural Resources Finance And Policy**
 Date Completed: **3/2/2023 1:29:07 PM**
 Agency: **Health Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
General Fund	-	63	92	-	-
Total	-	63	92	-	-
Biennial Total			155		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	.35	.35	-	-
Total	-	.35	.35	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Kate Schiller **Date:** 3/2/2023 11:21:16 AM
Phone: 651-296-6052 **Email:** kate.schiller@lbo.mn.gov

State Cost (Savings) Calculation Details

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General Fund	-	63	92	-	-
Total	-	63	92	-	-
Biennial Total			155		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	63	92	-	-
Total	-	63	92	-	-
Biennial Total			155		-
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

The bill directs MDH to update the Health Risk Limit (HRL) for contaminants in groundwater for perfluorooctane sulfonate (PFOS) into MN Rule 4717.7860, subpart 15 at a value equal to or lower than 0.015 parts per billion by July 1, 2025.

Technical comments:

The bill requires the department to develop rules for updating PFOS values by July 1, 2025. Based on experience with even minimal rule modifications, this timeline would be extremely challenging. A more achievable timeline would be July 1, 2026.

Assumptions

The department is experienced in establishing rules for contaminants in groundwater identical to what is required in this bill. Based on this experience, the department assumes this rulemaking effort would be comparable to a medium sized rule as detailed in the Minnesota Rulemaking Manual. The department assumes we will require staff time to conduct a toxicological assessment, draft rule language and supporting documentation materials, review and answer comments, and present information at a hearing held by an administrative law judge. Administrative costs will also be required as detailed in the Minnesota Rulemaking Manual. The department also assumes that rulemaking to update the PFOS HRL will not begin until the current rulemaking effort modifying MN Rule 4717 is completed. It is estimated that the current rulemaking will conclude by the end of July 2023. The department also assumes that to ensure the quickest adoption of the PFOS modifications to attempt to meet the July 1, 2025, deadline, this rulemaking effort will contain PFOS only. Other updated values increase the duration of rulemaking due to increased comments; questions from interested parties; longer and more complicated hearings; and additional staff time evaluating scientific literature for each value to be updated; and drafting rule language and supporting materials.

Expenditure and/or Revenue Formula

Expenditure (Actual Dollars)	Amount	FY 2024	FY 2025	FY 2026	FY 2027
Salary & Fringe:		FTE	FTE	FTE	FTE
Epidemiologist Principle Senior (Toxicologist)	154,241	0.20	0.20		
Research Scientist 3	145,917	0.15	0.15		

	FTE	0.35	0.35	0.00	0.00
	Subtotal	52,736	52,736	0	0
Information Technology:					
Attorney General legal fees			7,182		
Administrative law judge fees and filing fees			12,250		
State Register- request for comments, notice of intent to adopt rules			3,645		
Mailings, duplicating, transcripts, committee costs			249		
	Subtotal	0	23,326	0	0
Other Operating Costs:					
	Subtotal	0	0	0	0
Grants, Aids & Subsidies:					
	Subtotal	0	0	0	0
Indirect (20.3% Eligible Costs)	Subtotal	10,705	15,441	0	0
Expenditure	Total	63,441	91,502	0	0
Fiscal Tracking (Dollars in Thousands)		FY 2024	FY 2025	FY 2026	FY 2027
Health Protection BACT 03		63	92	0	0
Administration		63	92	0	0
Grants		0	0	0	0

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Char Kimber

Phone: 651-201-4685

Date: 3/2/2023 11:15:11 AM

Email: health.fiscalnotes@state.mn.us