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## **MassDEP to establish drinking water standards - by Susan Bernstein**

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Per and Polyfluoroalkyl Substances (PFAs) are chemical compounds manufactured and used in industrial and commercial products and have been shown in laboratory tests to have hazardous health effects.

In May of 2016, the U.S. Environmental Protection Agency (EPA) developed a standard of 70 nanograms per liter (ppt) for two of the most prevalent PFAs, perfluorooctane sulfonic acid and perfluorooctanoic acid. Several states have adopted this standard, while others have adopted stricter standards, ranging from 10 to 70 ppt. The Massachusetts Department of Environmental Protection (MassDEP) has used the EPA standard as part of an interim guidance, issued in June 2018, but has not yet codified the requirement in its hazardous waste regulations. Recent developments, as explained below, have occurred that will push MassDEP to proceed to more formal requirements.

As Frank Ricciardi, PE and LSP, and vice president of Weston & Sampson, has outlined in two recent articles in the NEREJ (October 5, 2018 and January 4, 2019), MassDEP is in the process of proposing amendments to the Waste Site Clean-Up regulations (310 CMR 40.0000 et seq., the Massachusetts Contingency Plan or MCP) to address PFAs. Ricciardi has also pointed out that although PFAs are not currently part of the Phase I Preliminary Environmental Site Assessment (Phase I), the impending regulations have implications for the real estate industry and developers.

Last October, the Conservation Law Foundation (CLF) and the Toxic Action Center, public interest groups, petitioned MassDEP, pursuant to MGL, Chapter 30A, §4, to establish drinking water standards for certain PFAs. Chapter 30A allows for “any interested person [to] petition an agency requesting the adoption, amendment, or repeal of any regulation....”

According to the petition, more than 3,000 different kinds of PFAs exist and have been found at unsafe levels in drinking, ground and surface waters. The text of the petition pointed out that “...without a standard, public water systems in Massachusetts are not required to regularly monitor for PFAS compounds or to treat water with unsafe levels....”

MassDEP held a public hearing on January 16, for the petitioners to present the terms of their request that a regulation be issued that will provide a threshold as well as reporting and remediation standards; and to receive testimony and comments from the public. Following the hearing, MassDEP issued a statement that it will “initiate the process” for development of drinking water maximum contaminant levels for a group of PFAs with the greatest threat to human health and for which analytical methods exist and technologies available. Currently, in addition to its interim guidance, MassDEP requires testing of new public water supply sources for six PFA chemicals; and has surveyed all permitted bottled water companies as to whether they have sampled for PFAs. MassDEP will proceed to develop and issue groundwater clean-up standards under the MCP, the regulations associated with MGL c. 21E.

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