Massachusetts Contingency Plan (MCP), 310 CMR 40.0000—
PFAS REPORTABLE CONCENTRATIONS and STANDARDS
Short Summary of Public Comments and Changes Made in Final Regulations

MassDEP issued a public hearing draft on April 19, 2019 of amendments to the Massachusetts Contingency Plan, 310 CMR 40.0000, that included, among other proposals, Reportable Concentrations (RCs) and cleanup standards for six Per- and Polyfluoroalkyl Substances (PFAS)—perfluorodecanoic acid (PFDA), perfluoroheptanoic acid (PFHpA), perfluorohexanesulfonic acid (PFHxS), perfluorononanoic acid (PFNA), perfluorooctanesulfonic acid (PFOS), and perfluorooctanoic acid (PFOA).

In the interest of coordinating the implementation of the PFAS-related MCP provisions with the regulatory process to establish PFAS Maximum Contaminant Levels for public water supplies under the Massachusetts Drinking Water Regulations, 310 CMR 22.00, MassDEP is moving forward with finalizing the PFAS-related MCP provisions at this time; the balance of the proposed MCP amendments will be addressed in a subsequent final amendments package.

MassDEP held four public hearings and one public meeting on the proposed MCP amendments in May 2019 and received 51 sets of public comments. The majority of the written comment and testimony at the public hearings and public meeting focused on the PFAS RCs and standards.

Groundwater RCs and Standards. Comments were received that the proposed RCs and groundwater GW-1 standards are too high (citing other states that have lower individual compound concentrations and stating that the values are not protective of nursing infants). Other commenters stated that the proposed values are too low (asserting that EPA's existing guideline for PFOA and PFOS is sufficiently conservative). Comments were also received in support of and against MassDEP's proposal to set the RCGW-1 and GW-1 standard based on the additive concentrations of the six PFAS compounds.

In the final amendments, MassDEP is retaining its proposed groundwater RCs and groundwater standards, including the RCGW-1 and GW-1 Method 1 groundwater standard of 20 parts per trillion for the sum of six PFAS, set to be protective of current and potential drinking water resources.

Soil RCs and Standards. Comments were received that the proposed values overestimate the amount of PFAS that could leach from soil to groundwater, lacked EPA approved methods for determining PFAS in soils or other media, may not be reliably quantifiable by available analytical methods, and would likely limit the reuse of biosolids from wastewater residuals which may have PFAS levels above the soil standards. A number of comments were also received regarding background levels of PFAS in soil. Commenters noted that the proposed soil cleanup standards are likely to be below PFAS concentrations in typical surficial soils (background levels), specifically citing data from a 2019 study of Vermont soils to support this claim.

MassDEP concurs that the available data indicate that the proposed soil standards are likely to be below background levels. Based on comments received regarding background levels of PFAS in soil, MassDEP has revised the RCS-1 Reportable Concentration and the S-1/GW-1, S-2/GW-1 and S-3/GW-1 Method 1 soil standards. The proposed value of 200 ng/kg (applied as the sum of six PFAS) has been revised to six chemical-specific standards (ranging from 300 to 2,000 ng/kg), using the 90th percentiles of the Vermont data on background levels in soil for each of the six PFAS. The final soil standards reflect available information on background concentrations of PFAS, and are consistent with MassDEP's practice of considering background concentrations and establishing standards at the upper end of the range of background values. The revised soil standards are based on background concentration data, rather than assumptions about PFAS leaching from soil.

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