

PFAS Concerns Mounting for Cities and Towns as MassDEP Proposes Maximum Contaminant Level in Drinking Water

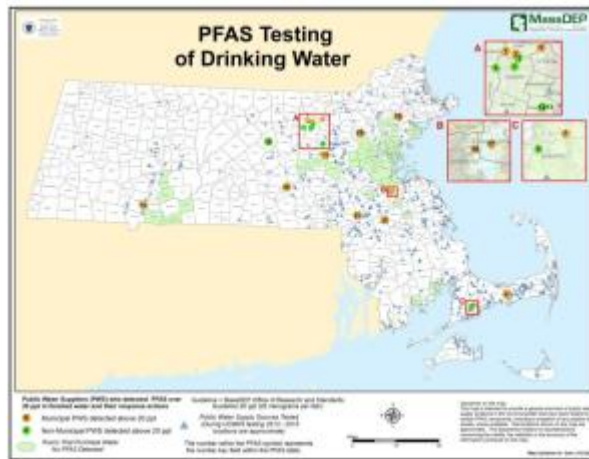
March 6, 2020 | David K. McCay | Articles

Many of our readers will be aware that on December 27, 2019, the [Massachusetts Department of Environmental](#)

[Protection](#) (MassDEP) [proposed](#) a Maximum Contaminant Level (MCL) for PFAS in drinking water of 20 parts per trillion (0.02 ug/L or ppt) for six PFAS chemicals combined.

To that point, PFAS generally was not regulated in Massachusetts drinking water. MassDEP's MCL proposal follows its adoption last year of a reportable concentration for PFAS, also at 20 ppt, for soil and groundwater contamination under Massachusetts General Laws, Chapter 21E and the Massachusetts Contingency Plan (310 CMR 40.0000). Massachusetts has been more proactive from a regulatory standpoint than many states in attempting to deal with the PFAS problem.

As MassDEP does so, however, the implications, potential costs, and concerns for Massachusetts cities and towns that provide public drinking water are coming into sharper focus. Earlier this week, the Massachusetts



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Municipal Association (MMA) [submitted comments](#) on MassDEP's proposed MCL for PFAS in drinking water. While the MMA expressed support “for the intent of the draft regulations to protect public and environmental health,” its anxiety over costs and unfunded mandates was clear. “As the full scope and cost of the need for remediation is not yet known, the MMA remains deeply concerned over how municipalities could pay for what has already been and what will continue to be exorbitant clean-up costs.” The MMA added that any new regulatory standard should not result in “new unfunded mandates.”

While MassDEP and Gov. Charlie Baker's administration deserves credit for attempting to address the PFAS problem head on, there is little denying that MassDEP is setting PFAS targets that, in many cases, cities and towns will now have to pay to achieve. The Baker administration deserves further credit for including \$23.9 million in its FY2019 closeout budget to assist communities with this work. However, there is no doubt that more robust State funding and assistance will be necessary. In the meantime, and outside of the limited state funding available, municipalities and their water rate payers will be left to shoulder the costs of PFAS testing and, if necessary, any remediation, as well as the expense of pursuing any potentially responsible parties for those clean-up costs. As testing becomes more widespread and the magnitude of those costs is better understood, expect increased pressure on the Commonwealth for greater funding and a more comprehensive approach to PFAS testing and remediation in our cities and towns.