



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker  
Governor

Matthew A. Beaton  
Secretary

Karyn E. Polito  
Lieutenant Governor

Martin Suuberg  
Commissioner

## REVISED PUBLIC HEARING NOTICE

The Massachusetts Department of Environmental Protection (MassDEP), under the authority of M.G.L. c. 21E, §§ 3(c), 3(d), 3(e), 3A(d), 3A(f), 3A(g), 3A(m), 3B, 5A, 6, 7 and 14, and c. 21A, § 2(28), M.G.L. c. 21C and M.G.L. c. 111, § 160, will hold public hearings in accordance with M.G.L. c. 30A on amendments to 310 CMR 40.0000, the Massachusetts Contingency Plan (MCP).

The purpose of the amendments is to update and clarify existing provisions for the notification, assessment and cleanup of oil and/or hazardous material contamination in the environment to ensure that actions are performed in a timely manner, are appropriately monitored and documented, and achieve of a level of No Significant Risk that is protective of public health and the environment.

The proposals include, but are not limited to: clarification and modification of provisions related to notification, Imminent Hazards, Tier Classification and Extensions, Remedial Additives, Status Reports, Remedial Monitoring Reports, Temporary Solutions, Active Exposure Pathway Mitigation Measures, Exposure Point Concentrations, Activity and Use Limitations, and public involvement; new adequately regulated provisions for disposal sites with Radioactive Materials; updates to Reportable Concentrations (RCs) and numerical cleanup standards (Method 1) for a limited number of chemicals; and the addition of RCs and Method 1 standards for six perfluoroalkyl substances—Perfluoroheptanoic Acid (PFHpA), Perfluorohexanesulfonic Acid (PFHxS), Perfluorooctanoic Acid (PFOA), Perfluorooctane Sulfonate (PFOS), Perfluorononanoic Acid (PFNA) and Perfluorodecanoic Acid (PFDA)—emerging contaminants of concern for exposure in drinking water.

This Revised Public Hearing Notice updates the Public Hearing Notice made by MassDEP in the Massachusetts Register on April 19, 2018 regarding the MCP amendments. See 1389 MAREG 20. This Revised Public Hearing Notice is made to provide notice that certain typographical errors in the amendments to the MCP, as posted on MassDEP's website prior to April 20, 2019, have been corrected. The corrections pertain to certain RC and Method 1 standards for the six perfluoroalkyl substances referred to above. The corrected amendments are available on MassDEP's website at: <https://www.mass.gov/lists/2019-proposed-mcp-revisions>

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

Printed on Recycled Paper

Four public hearings will be held on:

Monday, May 20, 2019 at 9:30 am  
MassDEP Western Regional Office  
436 Dwight Street  
Springfield, MA

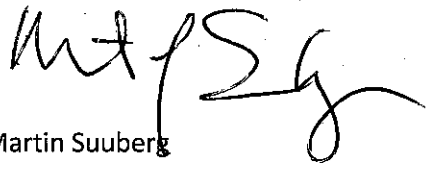
Wednesday, May 22, 2019 at 9:30 am  
MassDEP Southeast Regional Office  
20 Riverside Drive  
Lakeville, MA

Thursday, May 23, 2019 at 9:30 am  
MassDEP Headquarters  
One Winter Street, 2nd Floor conference rooms  
Boston, MA

Wednesday, May 29, 2019 at 9:30 am  
MassDEP Central Regional Office  
8 New Bond Street  
Worcester, MA

Testimony may be presented orally or in writing at the public hearings. MassDEP will accept written comments by email or mail until **5:00 PM on Friday, July 19, 2019**. Written comments must be submitted by email to [bwsc.information@mass.gov](mailto:bwsc.information@mass.gov) or by mail to: Elizabeth Callahan, MassDEP, One Winter Street, Boston, MA 02108. For special accommodations for these hearings, please call the MassDEP Diversity Office at 617-292-5751. TTY# MassRelay Service 1-800-439-2370. This information is available in alternate format upon request.

By Order of the Department

  
Martin Suuberg  
Commissioner

## Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

**CMR No: 310 CMR 40.0000**

**Estimate of the Number of Small Businesses Impacted by the Regulation: 1,742**

The estimate equals the number of disposal sites where assessment and cleanup activities under the MCP are ongoing (3,707) times the percentage of businesses in Massachusetts considered small business by the Small Business Administration (47%<sup>1</sup>).

<sup>1</sup> Source: Massachusetts Small Business Profile, 2017, SBA Office of Advocacy, [https://www.sba.gov/sites/default/files/advocacy/Massachusetts\\_1.pdf](https://www.sba.gov/sites/default/files/advocacy/Massachusetts_1.pdf)

### Select Yes or No and Briefly Explain

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? <i>The regulations require that reports be filed to document assessment and cleanup actions conducted at the disposal site. To the extent that a small business is legally responsible for conducting these actions under the regulations, it is required to file such reports. The amendments to the MCP clarify documentation requirements in the existing regulations.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? <i>No. The regulations do not add to recordkeeping requirements.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? <i>No. The regulations do not add to administrative oversight.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? <i>No. Compliance with the regulations will not require the hiring of additional employees.</i>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? <i>Yes. Under the semi-privatized framework of the MCP, parties required to conduct assessment and cleanup actions must hire a Licensed Site Professional. The services of a lawyer are not required, although many parties hire lawyers, particularly when the assessment and cleanup activities are related to potential property transactions.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? <i>The regulations do not require small businesses to purchase any particular product or make any particular capital investments to meet the regulations. Depending on the nature of the contamination, a small business that is legally responsible for conducting assessment and cleanup actions at a disposal site is required to pay for those activities.</i>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) <i>The MCP currently employs performance standards that provide flexibility for achieving the regulatory requirements.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? <i>No. The MCP amendments were developed to be consistent with and avoid duplication of other regulations.</i>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? <i>A small business that is legally responsible for conducting assessment and/or cleanup actions at a disposal site may be subject to audits or inspections of the work to ensure that it is conducted in compliance with the regulations and enforcement activities are possible for work that does not meet the regulatory requirements.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? <i>No educational services are required by the regulations.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? <i>The regulations do not introduce hurdles to small business formation.</i>

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? <i>The amendments are not likely to encourage the formation of small business in Massachusetts. Since its inception, the semi-privatized program has likely encouraged the formation of small businesses, including those that employ Licensed Site Professionals and involve scientific and technical services and the redevelopment of contaminated property.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? <i>No. M.G. L c. 21E requires that all persons liable for addressing oil and/or hazardous material contamination at disposal sites achieve the same level of cleanup to ensure that such sites are restored to a condition that is protective of public health and the environment. Less stringent compliance or reporting requirements for small businesses would be inconsistent with this statutory mandate. The performance standards in the MCP, however, allow for actions taken to comply with the regulations to be appropriately scaled to the nature and complexity of the disposal site conditions.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? <i>No. The regulations do not provide alternative schedules or deadlines for small businesses. The regulations deadlines ensure timely assessment and cleanup so that properties are restored to a condition of No Significant Risk in a timeframe that protects public health and the environment. The performance standards in the regulations, however, provide flexibility in scheduling and conducting response actions for conditions that do not require immediate action/pose short-term risk.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? <i>The performance standards in the regulations allow for actions taken to comply with the regulations to be appropriately scaled to the nature and complexity of the disposal site conditions, and for the consolidation of reports. This flexibility applies to all parties that a legally responsible for conducting work under the regulations, including small businesses.</i>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? <i>The regulations currently employ performance standards that apply to work done by all parties conducting work under the regulations, including small businesses.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? <i>The regulations currently employ performance standards and provide flexibility in meeting requirements that allows work to be appropriately scaled to the nature and complexity of the disposal site conditions. This regulatory approach minimizes inefficiency for all parties conducting work under the regulations, including small businesses.</i>