



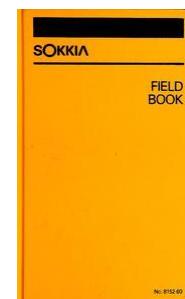
# Per- and Polyfluoroalkyl Substances (PFAS): Regulation and Ramifications

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# PFAS: Regulatory and Legal Overview

- Regulatory Context
  - Water
  - Soil
  - Disclosure Requirements
- Transactional Considerations
- Litigation Considerations



# Regulatory Context: Water

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- US EPA: Drinking water health advisory level (HA) of 0.07 ppb for both PFOS and PFOA (May 2016)
- Massachusetts: Stay tuned
- Other states:
  - Many at 0.07 ppb for now
  - Vermont: 0.02 ppb



# Regulatory Context: Soil

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- **Massachusetts:**
  - PFAS considered “contaminants of concern” (COCs) under Massachusetts Contingency Plan (MCP) and “hazardous material” under Chapter 21E
  - Reportable Concentrations and Method 1 Cleanup Standards have not yet been established under the MCP
  - Notification required for concentrations that pose an “imminent hazard”
- **Other States:**
  - Connecticut: No numeric criteria under Remediation Standard Regulations, treated as “additional polluting substances”
  - New Hampshire: Soil direct contact risk-based soil screening level of 500 ppb

# Regulatory Context: Disclosure Requirements

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- **Massachusetts—Toxics Use Reduction Act (TURA)**
  - Science Advisory Board (SAB) is considering PFAS
  - To date, SAB has recommended adding the following (and salts) to TURA list of toxic and hazardous substances:
    - PFOS, PFOA (C8)
    - PFHxS, PFHxA (C6)
    - PFBS, PFBA (C4)
- **California—Prop. 65**
  - In November 2017 PFOA and PFOS were added to list of substances known to cause reproductive toxicity.

# PFAS: Transactional Considerations

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- **Due Diligence**
  - Assess Risks
  - Establish Baseline
- Know your own products and operational risks
- **Structure of Transaction**
  - Stock versus asset
  - Entity form and structure
- **Pitfalls**
  - Known versus unknown
  - Beware reopeners



# Litigation Considerations

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- **Personal Injury Claims**
- **Class Action Claims**
  - Property Damage
  - Personal Injury
  - Medical Monitoring
- **Public Water Supply Cases**
  - Chemical/Manufacturing Facilities
  - Firefighting Foam Sites

# Questions and Discussion

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