



Per- and Polyfluoroalkyl Substances (PFAS)

Policy Position Statement:

The Florida League of Cities SUPPORTS legislative action to address growing concerns about PFAS in soil and water, including coordinating with the Environmental Protection Agency to establish science-based cleanup target levels, providing resources for testing and research, public education and risk assessment guidelines, establishing liability protection for entities that have legally used PFAS for fire suppression or have passively received PFAS, and developing cost-effective and risk-based corrective strategies for PFAS.

Background:

PFAS are chemicals commonly found in thousands of households, commercial, industrial and medical products, from stain repellants to nonstick cookware. These chemicals have been used lawfully for years, and, in some cases, their use is required by law. For example, PFAS is a necessary component in the foam used for firefighting at airports and is required by the Federal Aviation Administration.

PFAS are pervasive, never fully degrade and tend to stick around in the environment. There is growing concern about the public health impact of PFAS – what it does and at what levels it may cause harm. Public pressure is growing for state and federal agencies to do something and to do it quickly. The Environmental Protection Agency (EPA) began monitoring PFAS in 2013 but is now moving swiftly to establish regulations and maximum contaminant levels for PFAS. In 2016, EPA issued a Health Advisory Level (HAL) of 70 parts per trillion (ppt) for PFAS. A HAL is intended as an unenforceable, non-regulatory target designed to “inform” the public, but in practice, the HAL for PFAS has become a de-facto standard. EPA has a “PFAS Action Plan” identifying various strategies, including plans to develop a “Maximum Contaminant Level” (MCL) for PFAS. MCLs are regulatory in nature and enforceable.

The Florida Department of Environmental Protection (DEP) has initiated regulatory action on certain property owners and facilities based on the provisional HAL of 70 ppt – even though the agency has not engaged in rulemaking, as required by law, to establish a legal standard for PFAS.

There are no validated EPA methods for analyzing PFAS in soil, ground or surface water. There are no approved remedial technologies (carbon filtration is really the only available option, and it’s costly). The testing and assessment for PFAS are expensive and require local governments to hire costly environmental consultants. Suppose PFAS levels are discovered at 70 ppt or greater. In that case, local governments are forced to undertake additional expensive measures, such as

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closing drinking water wells, installing costly carbon filters at wellheads or providing bottled water to residents.

Lawsuits are being filed against the companies that manufacture and market PFAS. Multiple local governments in Florida have joined such lawsuits as class action plaintiffs. At some point, lawsuits may get filed against the owners of properties or facilities where PFAS have migrated or where it is used or stored. The owners may be cities, airports, seaports, dry cleaners, solid waste management facilities or many other businesses.

Bills introduced in the 2020 Legislative Session would have required notification of adjacent property owners if PFAS were detected and provided protection under the Brownfields Program for the lawful use of PFAS. Bills introduced in the 2021 session would have required DEP to adopt rules establishing maximum contaminant levels for PFAS in soil and groundwater, provided liability protection to property owners cooperating in good faith with regulatory agencies for testing and remediation, and directed DEP to develop strategies for risk assessment, public education and funding for remediation.