PFAS UPDATE

Association of Environmental Authorities
2026 Spring Meeting
April 23, 2026

Presented by Diane Alexander, Esq.

MARAZITI FALCON, LLP
ATTORNEYS AT LAW

NJDEP Drinking Water Standards

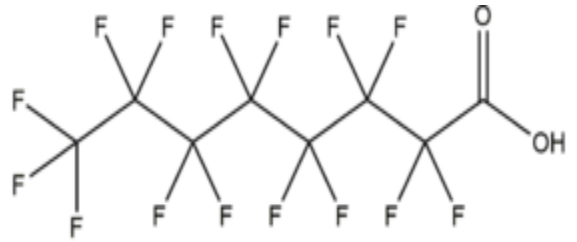
NJDEP has established drinking water standards (Maximum Contaminant Levels; MCLs) of:

13 ng/L for perfluorononanoic acid (PFNA; a nine carbon perfluorocarboxylate);

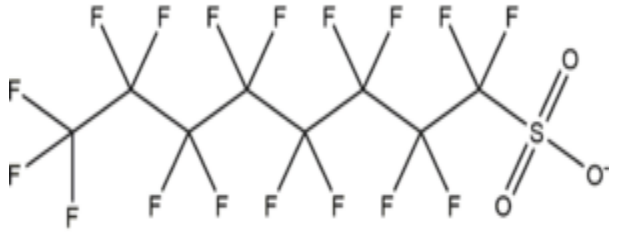
14 ng/L for PFOA, and

13 ng/L for PFOS.

These MCLs were recommended to NJDEP by the New Jersey Drinking Water Quality Institute (DWQI), an advisory body established in the New Jersey Safe Drinking Water Act to recommend drinking water standards to NJDEP. It is notable that the NJDEP MCL for PFNA that was adopted in 2018 was the first drinking water MCL for any PFAS in the United States. The MCLs were established as Ground Water Quality Standards by reference.



Perfluorooctanoic acid (PFOA)



Perfluorooctane sulfonate (PFOS)

USEPA's Draft National Recommended Human Health Criteria for three PFAS

The EPA has proposed strict draft Human Health Water Quality Criteria for PFOA, PFOS, and PFBS (as of Dec 2024), establishing "Water + Organism" (for drinking/eating fish) and "Organism Only" (for eating fish only) values.

Key Details of Drafted HHC (Water + Organism):

PFOA (Perfluorooctanoic acid): 0.0009 ng/L (or 0.0009 ppt)

PFOS (Perfluorooctane sulfonate): 0.06 ng/L (or 0.06 ppt)

PFBS (Perfluorobutane sulfonate): 400 ng/L (or 400 ppt)

Key Details of Drafted HHC (Organism Only):

PFOA (Perfluorooctanoic acid): 0.0009 ng/L (or 0.0036 ppt)

PFOS (Perfluorooctane sulfonate): 0.06 ng/L (or 0.07 ppt)

PFBS (Perfluorobutane sulfonate): 400 ng/L (or 500 ppt)

https://www.epa.gov/wqc/human-health-water-quality-criteria-pfas

Pursuant to the National Primary Drinking Water Regulations (NPDWR), USEPA established legally enforceable levels, called Maximum Contaminant Levels (MCLs), for six PFAS in drinking water: PFOA, PFOS, PFHxS, PFNA, and HFPO-DA as contaminants with individual MCLs, and PFAS mixtures containing at least two or more of PFHxS, PFNA, HFPO-DA, and PFBS using a Hazard Index MCL to account for the combined and co-occurring levels of these PFAS in drinking water. USEPA also finalized health-based, non-enforceable Maximum Contaminant Level Goals (MCLGs) for these PFAS. Compliance with MCLs is determined by running annual averages at the sampling point.

Compound	Final MCLG	Final MCL (enforceable levels)
PFOA	Zero	4.0 parts per trillion (ppt) (also expressed as ng/L)
PFOS	Zero	4.0 ppt
PFHxS	10 ppt	10 ppt
PFNA	10 ppt	10 ppt
HFPO-DA (commonly known as GenX Chemicals)	10 ppt	10 ppt
Mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and PFBS	1 (unitless) Hazard Index	1 (unitless) Hazard Index

NEW JERSEY DEP
Division of Water Monitoring, Standards & Pesticide Control

Anticipated Amendments to the Surface Water Quality Standards (SWQS) at N.J.A.C. 7:9B

- *Updated definitions, new significant figures policy, revision to site-specific criteria language*
- *New freshwater criterion for 1,4-dioxane, based on drinking water exposure*
- *Updated human health criteria for 94 toxic substances*
- *New freshwater and saline water criteria for PFNA, PFOA, and PFOS*

Department of Environmental Protection
Division of Water Monitoring, Standards and Pesticide Control
Bureau of Environmental Analysis, Restoration and Standards

November 2024

Revisions Since 2023 Stakeholder Meeting: New Fresh and Saline Criteria for PFNA, PFOA, PFOS

Parameter	NJDEP Freshwater Criteria Anticipated for Proposal (ng/L)	NJDEP Saline Water Criteria Anticipated for Proposal (ng/L)
Perfluorononanoic acid (PFNA)	5	2
Perfluorooctanoic acid (PFOA)	0.00057	0.00079
Perfluorooctane sulfonate (PFOS)	0.032	0.14

Status of Proposed Standards

NJDEP Stream Criteria:

NJDEP has not yet finalized these proposed standards through a formal rulemaking process.

USEPA final rule:

On May 14, 2025, USEPA announced that the agency will keep the current regulations in place for PFOA and PFOS. USEPA also announced its intent to extend the PFOA and PFOS Maximum Contaminant Level compliance deadlines and establish a federal exemption framework. Additionally, EPA announced its intent to rescind the regulations and reconsider the regulatory determinations for PFHxS, PFNA, HFPO-DA (commonly known as GenX), and the Hazard Index mixture of these three PFAS plus PFBS to ensure the determinations and any resulting drinking water regulation follow the Safe Drinking Water Act process. EPA plans to issue a proposed rule in the Spring of 2026, including a proposal to extend the compliance date to 2031.

The announced NJ stream standard for PFOA is based upon human consumption (of fish) and is nearly 25,000 times more stringent than the current New Jersey drinking water standard (14 ppt) and PFOS is over 400 times more stringent than the current New Jersey drinking water standard (13 ppt).

Wastewater treatment plants are not able to achieve compliance with effluent limitations calculated based upon the proposed stream standard without additional treatment.

Once a Surface Water Quality Standard (stream standard) is established and a stream is deemed impaired for a particular pollutant, point and non-point sources may be regulated to restrict discharges of that pollutant.

NJPDES Permits issued to point source dischargers can include effluent limitations that are very restrictive and can even be set at non-detect.

When the Department determines that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above a Surface Water Quality Standard, a water quality-based effluent limitation for that pollutant must be calculated such that compliance with the Surface Water Quality Standard is ensured.

Proposed Judicial Consent Orders between NJ/NJDEP and 3M and DuPont

Pending in the United States District Court for the District of New Jersey is a proposed Judicial Consent Order between Plaintiffs, NJDEP, NJDEP Commissioner, the Administrator of the New Jersey Spill Compensation Fund as to Defendant 3M Company

There is also a proposed Judicial Consent Order between the Plaintiffs as to Defendants E.I. Dupont de Nemours and Company; The Chemours Company; The Chemours Company FC, LLC; Dupont Specialty Products USA, LLC; Corteva, Inc.; and Dupont de Nemours, Inc. (collectively “Dupont”)

3M Company Settlement – NJDEP Statement

- The key features of the payment schedule include:

- Payments of $275 million to $325 million in the years 2026-2034, including payments in the first year of $43.45 million for natural resource damages (NRD) at the Chambers Works site and $16.55 million for PFAS abatement projects related to contamination at and from that site.
- Additional payments in 2026-2034 for statewide NRD and abatement of statewide PFAS contamination.
- Payments of an additional $125 million in 2035-2050, primarily for statewide NRD and PFAS abatement.
- Payment in the first year of $40 million to cover legal and other costs and fees and punitive damages.
- Payment of between $50 million and $100 million in 2027-2029 to recognize to acknowledge and recognize New Jersey's unique role as a national leader in PFAS abatement and Remediation efforts and specifically as the first state in the country to conduct statewide occurrence studies of PFAS in drinking water supplies, the first state in the country to establish a maximum contaminant level for any PFAS substance, and the first state in the country to enter into this type of comprehensive PFAS settlement.
- The funds to be provided under the proposed settlement with 3M are over and above funds already slated to be received by New Jersey public water systems under 3M's nationwide public water system settlement, announced in the AFFF litigation mentioned above in 2023. That settlement is anticipated to provide **approximately $300 to $500 million** directly to New Jersey public water systems. https://dep.nj.gov/3m/

3M Settlement - Release

- Under the terms of the proposed settlement, 3M is released from liability stemming from its sale, marketing, distribution, use, or manufacture of PFAS in New Jersey. The company is required to continue investigating and remediating PFAS contamination at certain former facilities in New Jersey where PFAS contamination has been identified and at any site where it is responsible for contamination with hazardous substances other than PFAS.

- https://www.nj.gov/oag/newsreleases25/2025-0513_Tab-F.-NJ-3M-JCO-May-12-2025_v3_CLEAN.pdf

Covenant Not to Sue

- Equally problematic are the terms and scope of the "Covenant Not To Sue" in the proposed 3M JCO, which states that "the Releasors absolutely, unconditionally, and irrevocably covenant not at any time hereafter, whether directly or indirectly or individually or collectively, to sue or take administrative action or commence, bring, file, assign, or prosecute . . . or to otherwise seek to establish liability for any Released Claim against any Released Entity in any forum whatsoever . . . ."; and extinguishes any Claim that could be asserted against 3M in any federal, state, or local action or proceeding (whether judicial, arbitral, regulatory, or administrative) to recover damages or funds for any Person who owns, operates, manages, or controls any… Treatment Works, Wastewater Treatment Plant, in the State or within the State's jurisdiction.

- This definition is particularly inappropriate for public utilities, which are not polluters but rather pass-through entities that must manage contaminants already present in the waste stream. Binding such entities under this definition equates to punishing essential public services for the actions of those responsible for the pollution in the first place.

The DuPont/Chemours Settlement - NJDEP Statement

- The key features of the settlement include:
- $225 million for natural resources damages;
- $525 million for abatement of environmental impacts;
- Approximately $125 million to cover legal and other costs, penalties and punitive damages;
- A commitment on the part of the settling defendants to remediate all contamination found at or which has emanated from each of the four industrial sites in accordance with New Jersey statutes and regulations;
- A multi-layered financial guarantee to ensure that the settling defendants' remediation obligations are met;
- Transfer to the State of ownership of approximately 73 acres of land located near Ramapo State Forest;
- Permanent preservation, via conservation easements, of three other parcels of land, covering a total of almost 1,400 acres.
- https://dep.nj.gov/dupont/

DuPont Settlement - Release and Covenant Not to Sue

- Under the terms of the proposed settlement, the settling defendants will receive releases stemming from their discharge of contaminants at and from the four industrial sites and from their sale, marketing, distributions, use, or manufacture of PFAS in New Jersey. However, the companies will be required to continue investigating and remediating contamination at sites in New Jersey that they currently or formerly owned, operated, or otherwise controlled.

- https://dep.nj.gov/wp-content/uploads/dupont/dupont-jco-proposed.pdf

- This JCO shall be a complete bar to any Released Statewide PFAS Claim.

“Releasors” “Covered PFAS Conduct,” “Covered PFAS Harm,” “Released Claims,” “Released Statewide PFAS Claims”

- The JCO defines “Covered PFAS Conduct” in extraordinarily broad terms, encompassing virtually all conceivable actions involving PFAS from “the beginning of time” through the “JCO Entry Date.” This includes, but is not limited to: the transport, treatment, storage, and disposal of PFAS-containing sludge and wastewater; any discharge or threatened discharge of PFAS into the environment; and all conduct related to compliance, reporting, or permitting obligations involving PFAS.
- Such a wide-ranging release immunizes DuPont and the “Released Entities” from responsibility for both ongoing discharges and future consequences tied to historical PFAS usage. It also precludes authorities from seeking redress or taking enforcement actions for continuing contamination or violations linked to DuPont with regard to its PFAS products.

Anticipated Costs of Compliance

- The capital cost to achieve compliance with these stream criteria is estimated to be in the hundreds of millions of dollars for larger authorities and in the tens of millions of dollars for smaller authorities, with annual operating costs expected to increase the operating budget of all authorities by many millions of dollars each year.
- These estimates do not include the cost of land acquisition to accommodate the treatment plant upgrade, if land application is even viable given the location of the facility. Additionally, significant costs will also be incurred for the disposal of spent media from the PFAS treatment process. The cost of sludge treatment and disposal has not yet been estimated due to questions regarding the availability of treatment and disposal options.
- All of these costs will be higher if the Authority determines through treatability studies that it is necessary to implement a reverse osmosis process to achieve consistent compliance.

Table ES-1 Select capital and O&M cost ranges for highest-ranking alternatives

Waste Stream	Facility Size	Highest-Ranking Alternatives	Capital Cost Range (by facility)	Annual O&M Cost Range (by facility)	Relative Confidence in Ability to Reliably Meet PFAS Targets[2]
Municipal WRRF effluent	10 million gallons per day (MGD) (6,940 gpm) (similar to Mankato or Moorhead with a population of 45,000)	GAC with reactivation (Alt 1a)[1]	$41M–$88M	$4.5M–$9.6M	Medium-high (breakthrough of short-chain PFAS may limit reliability)
		GAC, single-use AIX with GAC reactivation and AIX high-temperature incineration (Alt 6a)[1]	$80M–$170M	$6.1M–$13M	High (two processes provide more controlled breakthrough)
Municipal WRRF biosolids	10 dry tons per day (estimated for 10 MGD WRRF)	SCWO[3]	$40M–$85M	$0.47M–$0.99M	Medium-high (limited testing at full-scale)
		Pyrolysis or gasification with thermal oxidation of pyrogas[1,3]	$53M–$110M	$0.55M–$1.2M	Medium-high high (limited testing at full scale)
Mixed MSW landfill leachate	0.014 MGD (10 gpm)	GAC with high-temperature incineration (Alt 1a)[1]	$0.30M–$0.60M	$0.23M–$0.48M	Medium (breakthrough of short-chain PFAS may limit reliability)
		Foam fractionation with high-temperature incineration of foamate (Alt 8a)	$5.0M–$11M	$0.20M–$0.42M	Low (limited removal of short-chain PFAS)
Compost contact water	0.014 MGD (10 gpm)	GAC with high-temperature incineration (Alt 1a)[1]	$0.30M–$0.60M	$0.21M–$0.44M	Medium (breakthrough of short-chain PFAS may limit reliability)
		Foam fractionation with high-temperature incineration of foamate (Alt 8a)	$5.0M–$11M	$0.20M–$0.42M	Low (limited removal of short-chain PFAS)

[1] Alternatives indicated likely need pretreatment processes to operate PFAS separation and destruction technologies. Pretreatment costs are not included in this table but are discussed in report sections for each waste stream.

Potential Impacts and Other Costs

- The JCO will prevent local agencies from participating in multistate litigation intended to recover costs incurred as a result of PFAS treatment and disposal
- The Settlement includes a waiver of Contribution claims under CERCLA/Spill Act and lacks protection against contribution claims brought by Released Parties
- Regulators are considering PFAS air quality and sludge quality standards. The proposed JCO would prevent all claims against the Released Entities for the cost of compliance with these and other future standards.

Cost Estimates

- Each facility is unique with regard to potential costs of compliance, which should be evaluated by the Authority's Consultants.

- Evaluation of Current Alternatives and Estimated Cost Curves for PFAS Removal and Destruction from Municipal Wastewater, Biosolids, Landfill Leachate, and Compost Contact Water Prepared for Minnesota Pollution Control Agency (Minnesota Study)

- https://www.pca.state.mn.us/sites/default/files/c-pfc1-26.pdf
- https://www.pca.state.mn.us/air-water-land-climate/pfas-studies-and-reports

Most Recent Scheduling Order

- ORDERED that Plaintiffs (NJ/NJDEP) shall file their supplemental record to the Motion to Approve Judicial Consent Orders with Settling Defendants no later than Thursday, April 30, 2026;

- ORDERED that Amici, Interested Parties, and Objectors shall file their objections to Plaintiffs' supplemental record no later than Monday, May 25, 2026;

- An in-person hearing on Plaintiffs' supplemental record and objections thereto is scheduled for Wednesday, June 24, 2026, at 10:00 a.m. in Courtroom 1 of the United States Post Office and Courthouse, located on the 3rd floor, 401 Market Street, Camden, New Jersey 08101. The parties shall be prepared to have their witnesses available to present testimony.

Judicial Review

- The court's determination of whether a consent decree is fair, reasonable, and in the public interest requires it to examine:
  - The fairness and adequacy of the investigation.
  - The fairness and adequacy of the public notice and participation process.
  - The fairness and adequacy of the consent judgment itself.
  - The adequacy of the settlement amount.

THANK YOU

MARAZITI FALCON LLP
ATTORNEYS AT LAW

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