

## THE MAINE PFAS TRACKER

### Maine Standards and Proposed Actions

Pierce Atwood LLP offers this summary of Maine Per- and Polyfluoroalkyl Substances (PFAS) standards as a convenience in evaluating PFAS and tracking Maine Department of Environmental Protection (DEP) regulatory and Maine legislative developments. Levels are provided below in parts per million (ppm), parts per billion (ppb), or parts per trillion (ppt), depending on the matrix typically involved. [Please click here to view this Maine PFAS Tracker on the firm's website.](#)

#### I. Maine Drinking Water Program Guidance, Department of Health and Human Services

PFOA & PFOS combined 70 ppt

This standard is taken from the U.S. Environmental Protection Agency Drinking Water Health Advisory of 2016. ME CDC, Dec. 2016 provided the same standard.

#### II. Maine DEP Chapter 418, Beneficial Use of Solid Wastes, Appendix A – screening concentration – (secondary materials)

	<u>ppm</u>	<u>ppb</u>	<u>ppt</u>
PFOA	.0025	2.5	2,500
PFOS	.0052	5.2	5,200
PFBS	1.9	1,900	1,900,000

These concentrations are also being applied as screening levels to residuals regulated under DEP Chapter 419, Agronomic Utilization of Residuals. If screening levels are exceeded, a “closer look” by the Department will occur. See Memorandum from David Burns, DEP to licensed facilities that land apply, compost, or process sludge in Maine, RE: Requirement to analyze for PFAS compounds, March 22, 2019 (link below).

#### III. Maine DEP Soil Remedial Action Guidelines (ppm) effective October 19, 2018

	<u>PFBS</u>	<u>PFOS</u>	<u>PFOA</u>
Leaching to Groundwater	7.1	0.021	0.0095
Residential	1,700	1.7	1.7
Commercial	22,000	22	22
Park User	4,900	4.9	4.9
Recreator (Sediment)	5,700	5.7	5.7
Construction Worker	51,000	5.1	5.1

**IV. Maine DEP Water Remedial Action [Guidelines](#) (ppb) effective October 19, 2018**

	<u>PFBS</u>	<u>PFOS</u>	<u>PFOA</u>
Residential	400	0.40	0.40
Construction	100,000	750	750

“For PFOA and PFOS, use EPA health advisory where groundwater is used or may be used for human consumption.”

**V. Maine DEP Fish Tissue Remedial Action [Guidelines](#) (ppm) effective October 19, 2018**

PFBS	52
PFOS	0.052
PFOA	0.052

**VI. Maine DEP Chemicals of High Concern [Listing](#)**

PFOS and its salts were listed in July 2015 as “Chemicals of Concern,” under the Toxic Chemicals in Children’s Products Law, 38 M.R.S. § 1691, et seq. At the same time, PFOS and its salts were also listed as “Chemicals of High Concern.” The listing qualifies a chemical for further regulation under this law. See the entry below, noting that DEP is proposing regulation of PFOS as a “High Priority” chemical.

**VII. Governor Mills’ Executive Order No. 5 FY 19/20 – An Order to Study the Threats of PFAS Contamination to Public Health and the Environment**

On March 6, 2019, Governor Mills issued “[An Order to Study the Threats of PFAS Contamination to Public Health and the Environment](#).” Citing the need for a coordinated response and the necessity of studying PFAS distribution, assessing potential impacts, and recommending strategies to mitigate the impacts, Governor Mills established a task force comprised of the commissioners of four state agencies, as well as a public health physician and a representative selected by the commissioners of the Maine DEP and Maine DHHS from several different specified groups or entities. The task force has multiple specific tasks including gathering information, identifying data gaps, sources and pathways for PFAS, inventorying aqueous film forming foam (AFFF), and addressing how state agencies may reduce or eliminate risks. The task force has begun meeting and created a [website](#), where further information can be found.

### VIII. **Maine DEP Memorandum to Licensed Facilities that Land Apply, Compost, or Process Sludge in Maine**

This memorandum from David Burns, DEP to Licensed facilities that land apply, compost, or process sludge in Maine, RE: Requirement to analyze for PFAS compounds, March 22, 2019, requires testing of certain materials for certain PFAS. All biosolids/sludge program licensees and biosolids/sludge composting facilities are now directed to test their material for PFOA, PFOS, and PFBS, and to update their Sampling and Analytical Work Plan to include sampling and analysis for these compounds, before any additional land application of these materials. Includes detailed sampling and analytical recommendations.

### IX. **Maine DEP Proposed Regulations and Other Guidance**

1. Chapter 890, Designation of PFOS as a Priority Chemical. The Department is proposing to adopt a new rule that will designate PFOS as a priority chemical and require reporting for certain product categories that contains this regulated chemical. The proposed rule applies to manufacturers of specified product categories that contain intentionally added amounts of PFOS, which is or was used to make clothing water repellent, among many other uses. Comments are now being considered by the department.
2. DEP held a public stakeholder meeting on May 31, 2019 on its planned rulemaking to designate all PFAS as hazardous matter under 38 M.R.S. Section 1319. Because the law prohibits discharges of hazardous matter, this rule would prohibit all discharges of PFAS unless licensed under state or federal law; further, any unlicensed discharges would require reporting and removal to the satisfaction of the DEP. "Hazardous matter" is automatically picked up as a hazardous substance under the Uncontrolled Hazardous Substance Sites Law (Maine's "Superfund"). Thereafter, DEP would have authority to designate sites, require cleanups, and seek cost-recovery for PFAS contamination. DEP welcomed written comments, which will be considered by the department.
3. Maine DEP Bureau of Remediation and Waste Management, Division of Technical Services **Memorandum**, To: Carla Hopkins, Environmental Specialist IV, cc: David Burns, Acting Bureau Director, From: Kelly Perkins, Chemist 3, Date: March 26, 2019, Re: Per- And Polyfluoroalkyl Substances (PFAS) Laboratory Recommendations. Suggests items for discussion with laboratories before analysis of samples.

**X. New Legislation - *An Act to Protect the Environment and Public Health by Further Reducing Toxic Chemicals in Packaging***

Approved by Governor Mills on June 13, 2019, this Act amends the 1989 Reduction of Toxics in Packaging law, which applied to four metals in all packaging or packaging components. The amendments expand the law to reach phthalates, PFAS, and additional “chemicals of concern” in food packages. The law now includes specific bans, and authorizes additional DEP rulemakings that may lead to bans or other requirements, giving the department FDA-like authority. See 38 M.R.S. § 1731 et seq., amended by P.L. 2019, c. 277.

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**PFAS Names and CAS Numbers**

Perfluorobutanesulfonic acid (PFBS) CAS # 375-73-5, 59933-66-3

Perfluorooctanesulfonic acid (conjugate base perfluorooctanesulfonate) (PFOS)  
CAS # 1763-23-1

Perfluorooctanoic acid (PFOA) (conjugate base perfluorooctanoate) CAS # 335-67-1

If you have questions or concerns about PFAS issues, please contact one of our environmental law attorneys: [Ken Gray](#) at 207.791.1212, [Tom Doyle](#) at 207.791.1214, [Bill Taylor](#) at 207.791.1213, or [Lisa Gilbreath](#) at 207.791.1397.

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