

Using NJDEP CSRR Financial Relief Criteria for Spill Fund Damage Claims and Publicly Administered Remediations

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Contaminated Site Remediation & Redevelopment
New Jersey Department of Environmental Protection



Background

On April 10, 2024, the United States Environmental Protection Agency (EPA) announced the final National Primary Drinking Water Regulation (NPDWR) for six Per- and Polyfluoroalkyl Substances (PFAS) compounds. The NPDWR established legally enforceable individual Maximum Contaminant Levels (MCLs) for five PFAS compounds in drinking water. A sixth PFAS compound (PFBS) is included if found as part of a mixture that includes at least one of three other PFAS compounds and the mixture has a Hazard Index of one. The New Jersey Department of Environmental Protection (DEP) does not use the Hazard Index approach when developing standards. Thus, for the purposes of this policy, Contaminated Site Remediation & Redevelopment (CSRR) will consider the value of PFBS used in the Hazard Index equation as a standalone MCL.

In the development of the NPDWR for 6 PFAS compounds, the noncarcinogenic and carcinogenic health endpoints were evaluated where appropriate toxicological information was available. For perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), the available evidence indicates that oral exposure is associated with hepatic, immunological, cardiovascular, and developmental effects in humans, given sufficient exposure conditions. In addition, EPA concluded in toxicological assessments that PFOA and PFOS are *likely to be carcinogenic to humans* via the oral route of exposure. The cancer health effects data is more limited for perfluorononanoic acid (PFNA), perfluorohexanesulfonic acid (PFHxS), hexafluoropropylene oxide-dimer acid (HFPO-DA), and PFBS; therefore, the MCLs for those 4 PFAS compounds were developed based on noncarcinogenic health effects data. The available animal toxicological and/or epidemiological studies demonstrate that PFNA, PFHxS, HFPO-DA and PFBS have immune, developmental, hematologic, and endocrine effects following oral exposure.

Based on both the Federally proposed and promulgated NPDWR and the draft IRIS toxicological assessment for PFNA and final IRIS toxicological assessment for PFHxS released in January 2025, if there are exceedances of the values presented in the below table under the column titled “NJDEP CSRR Financial Relief Criteria” in a private potable well, the property owner may be eligible for financial relief for installation of a treatment system or alternate water source through CSRR.

It should be noted that, in accordance with the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq. (Brownfield Act), individual contaminants are regulated, not mixtures of contaminants. To that end, CSRR will regulate the non-cancer health endpoint for PFNA, HFPO-DA/GenX, PFHxS, and PFBS using the individual health-based values noted below (PFBS does not have an individual MCL and is only included as part of the mixture noted above).

	CAS Number	NJDEP CSRR Financial Relief Criteria (µg/L)
Perfluorononanoic Acid (PFNA)	375-95-1	0.010
Perfluorooctanoic acid (PFOA)	335-67-1	0.0040
Perfluorooctanesulfonic acid (PFOS)	1763-23-1	0.0040
Hexafluoropropylene oxide-dimer acid (HFPO-DA or GenX)	13252-13-6	0.010
Perfluorobutane sulfonate (PFBS)	375-73-5	2.0*
Perfluorohexanesulfonic acid (PFHxS)	355-46-4	0.010

* A Health Based Water Concentration (HBWC) for PFBS was developed by EPA as part of the Hazard Index MCL for mixtures of PFHxS, PFNA, HFPO-DA, and PFBS.

Policy

CSRR is proactively implementing the use of the NJDEP CSRR Financial Relief Criteria during the evaluation of sampling results for private wells.

- For publicly administered sites, CSRR is comparing the result of PFAS in private well sampling to the NJDEP CSRR Financial Relief Criteria. If PFAS are detected above these criteria, CSRR will recommend that the Private Well Owner contact the Environmental Claims Administration (ECA), the office responsible for managing Spill Fund Damage Claims.
- CSRR will provide a treatment system or alternate water source when there is an exceedance of the NJDEP CSRR Financial Relief Criteria, including for those who sampled their well for the purposes of the Private Well Testing Act (PWTa).

A private well owner may file a Spill Fund Damage Claim if any of PFOS, PFOA, or PFNA contamination is detected in a private well and the results are greater than the NJDEP CSRR Financial Relief Criteria. Currently, HFPO-DA/GenX, PFHxS, and PFBS are not included in Appendix A – List of Hazardous Substances, of N.J.A.C. 7:1E, Discharges Petroleum and Other Hazardous Substances Rules. The ECA is precluded from using the Spill Fund to compensate claims filed for damages caused by a contaminant that is not included in Appendix A.

Accordingly, if a private well has been damaged by only HFPO-DA/GenX, PFHxS, or PFBS, CSRR will provide an alternate water source using a different funding source. As each of HFPO-DA/GenX, PFHxS, and PFBS are added to the List of Hazardous Substances, private well owners will be eligible to apply to the Spill Fund for compensation if damaged by these contaminants.

Scope

This policy applies to entities that are not regulated by N.J.A.C. 7:10 (e.g., a private well owner) whose wells have been impacted by PFAS. Public Water Systems (N.J.A.C. 7:10, Safe Drinking Water Act Rules) are not subject to this policy.

Evaluation of previously sampled homes

CSRR reviewed historical private well sampling results for wells it sampled as part of publicly funded investigations to determine if: (a) at least one of PFNA, PFOA, or PFOS was detected above the NJDEP CSRR Financial Relief Criteria, but at or below the New Jersey MCL; or (b) at least one of HFPO-DA/GenX, PFHxS, or PFBS was detected above the NJDEP CSRR Financial Relief Criteria. The private well owners were notified of this policy and encouraged to contact ECA. See Financial Assistance Section below.

CSRR reviewed historical private well sampling data collected pursuant to the Private Well Testing Act (PWTa) to determine whether at least one of PFNA, PFOA, or PFOS was detected above the NJDEP CSRR Financial Relief Criteria but at or below the New Jersey MCL. Similarly, private well owners were notified of this policy and encouraged to contact ECA. See Financial Assistance Section below.

Financial Assistance

A private well owner may file a Spill Fund Damage Claim if any of PFOS, PFOA, or PFNA contamination is detected in a private well and the results are greater than the NJDEP CSRR Financial Relief Criteria.

If a private well has been damaged by only HFPO-DA/GenX, PFHxS, or PFBS, rather than filing a Spill Fund Damage Claim, the damaged party should email the Environmental Claims Administration (ECA) at srp_spillfund_gq@dep.nj.gov and attach the sampling results indicating the exceedance of any of HFPO-DA/GenX, PFHxS, or PFBS and CSRR will provide an alternate water source.

Filing a Spill Fund Claim

Note: CSRR is no longer requiring the submission of a confirmatory sample from the private well. All samples must be collected by an NJDEP Certified Laboratory.

In accordance with the Processing of Damage Claims Pursuant to the Spill Compensation and Control Act rule at N.J.A.C. 7:1J-2.4(d), a claim is not eligible for compensation through the Spill Fund if the applicant was aware of the contamination. For purposes of this policy only, if a private well sample was collected prior to the effective date of this policy or a private well sample was collected for a property transaction that occurs within 60 days after the effective date of this policy, both the seller and purchaser of the affected property may file a Spill Fund Damage Claim, for past and future costs, provided the claim is submitted within one (1) year of the date of the notification from the ECA that the property may be eligible for compensation.

Eligible costs may include the cost of the private well sample, installation of a treatment system, and operations, monitoring, and maintenance of the treatment system.

If a private well sample is collected more than 60 days after the effective date of this policy, only the seller of the property is eligible to file a Spill Fund Damage Claim. Eligible costs may include the cost of the private well sample, installation of a treatment system, and post-system installation sampling, as long as the seller still owns the property. The claim must be submitted within one (1) year of the date of the notification from the CSRR that the property may be eligible for compensation.

All claims must include a signed and notarized Spill Fund Damage Claim Form, proof of property ownership, private well sampling results, and three competitive bids to install, maintain, and monitor a POET System. If public water exists at the damaged property, the claimant must provide three competitive bids from licensed plumbers to connect the property to public water, and three estimates from certified well drillers to seal the well.

Please note property diminution claims are not eligible under this policy.