

**Insights****PFAS UPDATE: CURRENT STATE-BY-STATE GROUNDWATER REGULATIONS**

Jul 20, 2021

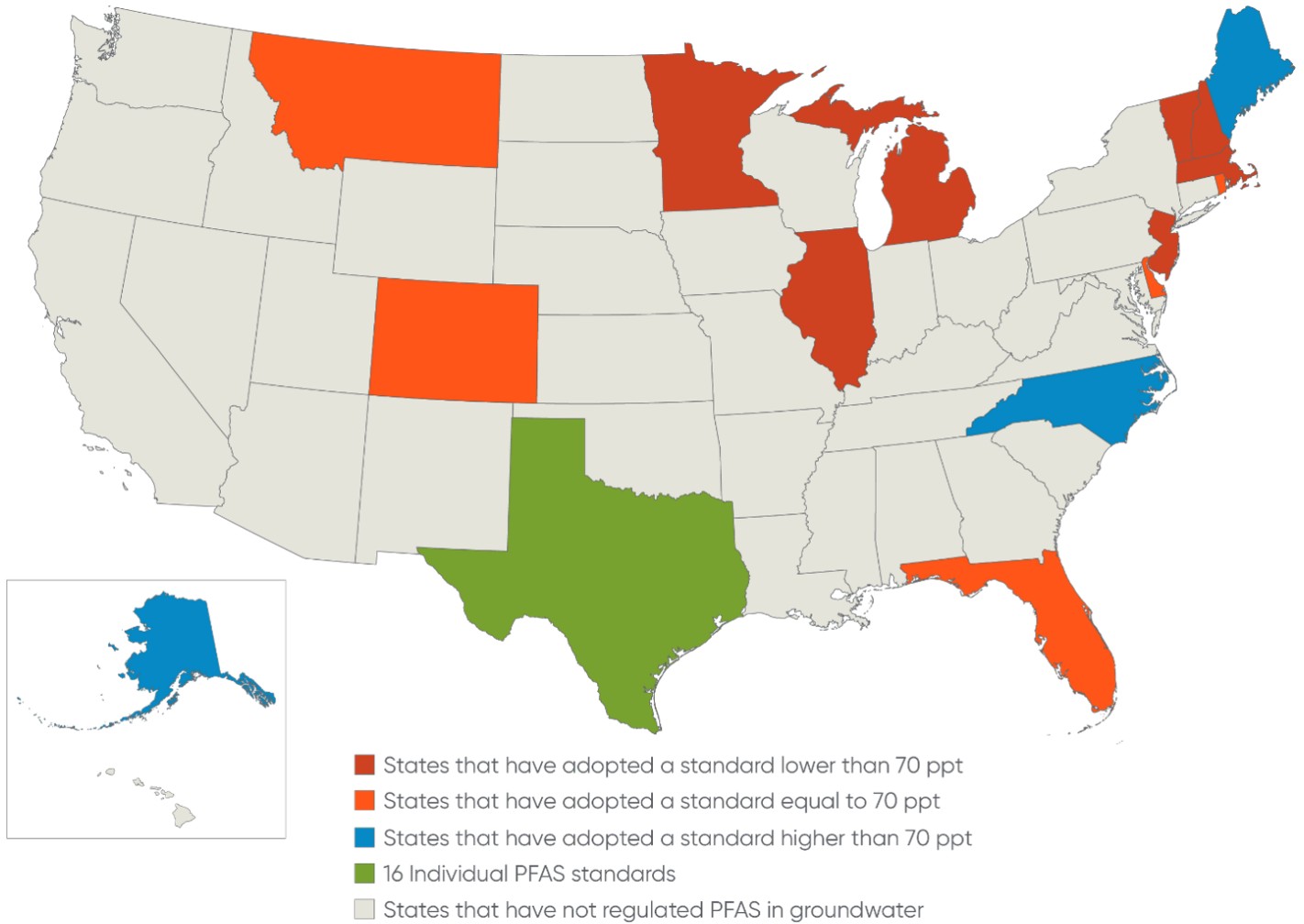
In the absence of federal cleanup standards for per- and polyfluoroalkyl substances (“PFAS”) in groundwater, several states have started the process of regulating PFAS in groundwater themselves. As a result, states have adopted a patchwork of regulations and guidance standards which presents significant compliance challenges to impacted industries. This client alert explores the current landscape of state regulations regarding the guidance, notification, and cleanup levels for PFAS – typically perfluorooctane sulfonic acid (“PFOS”) and perfluorooctanoic acid (“PFOA”) – in groundwater.

**Federal Health Recommendations and Advisory**

Although no legally binding standards have been issued at the federal level, the United States Environmental Protection Agency (“EPA”) has issued two influential documents: (1) [Interim Recommendations to Address Groundwater Contaminated with PFOA and PFOS](#); and (2) a [Lifetime Drinking Water Health Advisory Level of 70 ppt for PFOS and PFOA](#). While EPA’s health advisory level is non-binding, and is primarily intended to address drinking water contamination, several states have nevertheless used the EPA’s recommended 70 ppt as a baseline for establishing groundwater limits, which fortunately does create some regulatory consistency between some states.

**State Regulations**

The snapshot provided below is current as of [July 19, 2021](#), but it is important to note that this is a rapidly developing regulatory space. Some states, such as [North Carolina](#), [Pennsylvania](#), [Rhode Island](#), and [Wisconsin](#) have proposed groundwater regulations for PFAS which may take effect soon, and more state actions, as well as possible federal action, are expected to be announced later this year. All of which means that businesses should consider whether they currently use or discharge any PFAS compounds, and if so, evaluate what state regulations may apply, particularly if they operate in any of the below-listed jurisdictions. In addition, owners of property with legacy PFAS use, and prospective purchasers of commercial and industrial properties, should review the most current groundwater quality standards as part of the due diligence process.



The information is current as of July 19, 2021

Participating States	Concentration Level	Type of Regulation	Adoption Status
Illinois	2 ppt (stated by the Illinois Pollution Control Agency as 2 ng/L)	PFOA (Guidance)	<a href="#">Regulation</a> (still in draft form) and <a href="#">Related Information</a>
Michigan	6 ppt	PFNA (Clean Up)	<a href="#">Regulation</a> and <a href="#">Related Information</a>
Michigan	8 ppt	PFOA (Clean Up)	<a href="#">Regulation</a> and <a href="#">Related Information</a>
New Hampshire	11 ppt	PFNA (Clean Up)	<a href="#">Regulation</a> and <a href="#">Related Information</a>

New Hampshire	12 ppt	PFOA (Clean Up)	<a href="#">Regulation and Related Information</a>
New Jersey	13 ppt	PFNA and PFOS (Clean Up)	<a href="#">Regulation and Related Information</a>
Illinois	14 ppt (stated by the Illinois Pollution Control Agency as 14 ng/L)	PFOS (Guidance)	<a href="#">Regulation (still in draft form) and Related Information</a>
New Jersey	14 ppt	PFOA (Clean Up)	<a href="#">Regulation and Related Information</a>
New Hampshire	15 ppt	PFOS (Clean Up)	<a href="#">Regulation and Related Information</a>
Minnesota	15 ppt	PFOS (Guidance)	<a href="#">Health Advisory Level</a>
Michigan	16 ppt	PFOS (Clean Up)	<a href="#">Regulation and Related Information</a>
New Hampshire	18 ppt	PFHxS (Clean Up)	<a href="#">Regulation and Related Information</a>
Massachusetts	20 ppt (stated in the regulation as .02 ppb)	6 PFAS Substances combined – PFOA, PFOS, PFHxS, PFNA, PFHpA, and PFDA (Clean Up)	<a href="#">Regulation and Related Information</a>
Vermont	20 ppt (stated in the regulation as .02 µg/L)	5 PFAS substances combined: PFHpA, PFHxS, PFNA, PFOS and PFOA (Notification)	<a href="#">Regulation and Related Information</a>
Minnesota	35 ppt	PFOA (Advisory)	<a href="#">Health Advisory Level (see page 181)</a>
Minnesota	47 ppt	PFHxS (Advisory)	<a href="#">Health Advisory Level</a>

			(see page 180)
Michigan	51 ppt	PFHxS (Clean Up)	<a href="#">Regulation and Related Information</a>
Colorado	70 ppt	Site-specific Standard for PFOA and PFOS (Clean Up)	<a href="#">Site-Specific Groundwater Quality Standard</a>
Delaware, Florida, Montana, and Rhode Island	70 ppt	Follow the EPA Health Advisory Level: PFOS and PFOA combined (Guidance and Notification)	Delaware: <a href="#">Guidance Policy</a> Florida: <a href="#">Guidance Plan</a> Montana: <a href="#">Guidance Standard</a> Rhode Island: <a href="#">Notification Standard</a>
Illinois	140 ppt (stated by the Illinois Pollution Control Agency as 140 ng/L)	PFHxS (Guidance)	<a href="#">Regulation (still in draft form) and Related Information</a>
Texas	290 ppt, etc.	16 Different PFAS Substances (Clean Up)	<a href="#">Protective Concentration Levels</a>
Michigan	370 ppt	HFPO-DA (Clean Up)	<a href="#">Regulation and Related Information</a>
Michigan	420 ppt	PFBS (Clean Up)	<a href="#">Regulation and Related Information</a>
North Carolina	2,000 ppt	PFOA (Guidance)	<a href="#">Regulation and Related Information</a>
Illinois	2,100 ppt (stated by the Illinois Pollution	PFBS (Guidance)	<a href="#">Regulation (still in draft form) and Related Information</a>

	Control Agency as 140,000 ng/L)		
Michigan	400,000 ppt	PFHxA (Clean Up)	<a href="#">Regulation and Related Information</a>
Alaska	400,000 ppt (stated in the regulation as 0.4 µg/L)	PFOA and PFOS separately (Clean Up)	<a href="#">Regulation (18 AAC 25) and Related Information</a>
Maine	400,000 ppt (stated in the regulation as 0.4 ppb)	PFOA and PFOS separately (Guidance) Note: Maine has both residential and construction standards	<a href="#">Maximum Exposure Guideline</a>
Illinois	560,000 ppt (stated by the Illinois Pollution Control Agency as 560,000 ng/L)	PFHxA (Guidance)	<a href="#">Regulation (still in draft form) and Related Information</a>

No regulations:

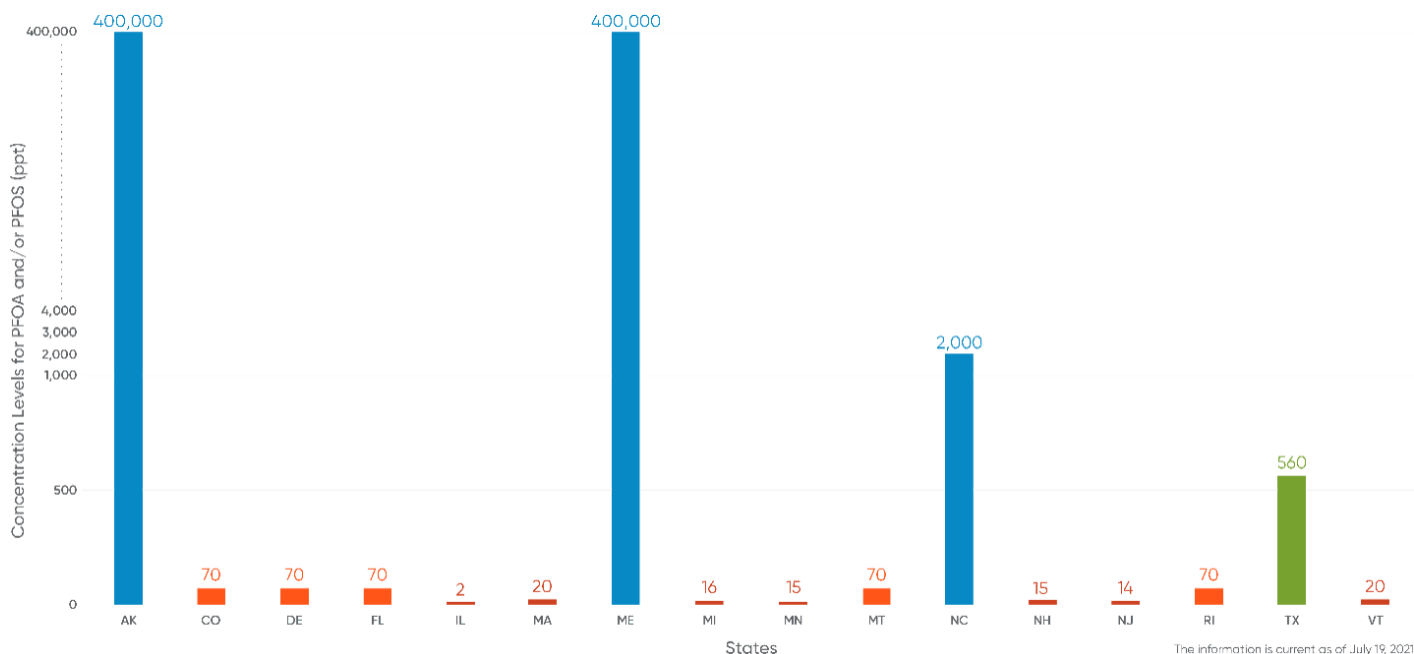
Alabama, Arizona, Arkansas, California, Connecticut, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming

Key:

Notification	A corporate representative must inform the appropriate state official that the groundwater is above the stated limit.
Guidance	These levels are not binding limits, but they can serve as the basis for regulatory action, and are a useful tool for due diligence and risk assessment.
Clean Up	Investigation and remediation is usually required when concentration levels exceed the clean-up threshold. This is usually expressed by groundwater quality standards that identify specific clean-up criteria.

## Additional Information

Without federal PFAS standards for groundwater, states have enacted a wide range regulatory concentration levels. For example, for PFAS substances in groundwater, the most stringent concentration is 2 ppt (Illinois; PFOA only) and the most lenient concentration is 560,000 ppt (Illinois; PFHxA only). The following chart illustrates the discrepancies in the concentration levels only for PFOA and/or PFOS.



## Conclusion

Businesses operating in the 16 states that have already enacted some form of regulation should consider whether they currently use or discharge any of the regulated PFAS compounds. In addition, owners of property with legacy PFAS use, and prospective purchasers of commercial and industrial properties in these jurisdictions will increasingly need to incorporate the groundwater quality standards as part of their due diligence processes.

For more information on PFAS chemicals, and the regulatory and litigation risks that they pose, please visit our [PFAS webpage](#). If you have a question about how to manage PFAS risk in any jurisdiction, contact Tom Lee, John Kindschuh, or any other member of our PFAS team at Bryan Cave Leighton Paisner LLP.

## RELATED PRACTICE AREAS

- PFAS Team
- Environment

## MEET THE TEAM



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