



PFAS and Your Wastewater Discharge Permit: What to Know and How PFAS Affects Permit Requirements

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06.29.2023

Beginning with the PFAS Action Plan of 2019, it became clear to industry observers and environmental professionals that EPA intends to regulate PFAS compounds in industrial wastewater permits. The Action Plan identified an agency goal of identifying industry sources that may warrant further study for potential regulation [of PFAS] through national Effluent Limitation Guidelines and Standards (ELG).? However, the Action Plan also noted several barriers to regulation, including a lack of validated sampling methodologies, a need for additional toxicity and exposure information for establishing defensible cleanup levels, and a need to develop new, and enhance existing, treatment methods. Since publication of the Action Plan, EPA has published several guidance documents and issued rulemakings in furtherance of its goal to regulate PFAS in wastewater permits.

In 2020, EPA published interim guidance geared specifically toward NPDES permit writers, suggesting ways to begin incorporating PFAS requirements into NPDES permits. The stated goal of the interim guidance was to address PFAS while the CWA framework for potentially regulating PFAS discharges pursuant to the NPDES program is under development.? Although it is clear the end goal is to regulate PFAS by way of numeric effluent limitations, EPA has been creative in figuring out ways to regulate without numeric discharge limits. First, permit writers were told to begin incorporating monitoring requirements at facilities where PFAS are expected? in the discharge. However, without a validated laboratory methodology for analyzing PFAS in wastewater, gathering defensible monitoring data is difficult.

The next year, in 2021, EPA issued an Advanced Notice of Proposed Rulemaking to collect data and facility information concerning discharges of PFAS from facilities in the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) point source category. EPA's intent was to use the data to amend the OCPSF effluent limitation guidelines to include PFAS compounds. EPA requested information from manufacturers? and formulators? of PFAS. A manufacturer is any facility producing PFAS compounds. Formulators are the primary customers of PFAS manufacturers and use PFAS in either the

production of commercial or consumer goods (e.g., weather-proof caulking) or as an intermediary in the production of consumer goods (e.g., grease-proof coating for a pizza box). Facilities in these categories were asked to provide EPA with information regarding the identity and location of other facilities believed to be PFAS manufacturers or formulators. They were also asked to describe their manufacturing processes (i.e. process flow diagrams), provide data on specific compounds produced or used, and to provide *customer information* related to PFAS products, including the customers or industries that are purchasing these materials, and the quantities of materials sold to various customers. This final category of requested information is particularly concerning. Even if your facility is not a manufacturer or formulator of PFAS compounds, if you purchased PFAS containing products, EPA may already be aware and may be poised to share this information with state or local permit writers.

By April of 2022, EPA had identified industry categories with known PFAS containing wastewater discharges and published updated NPDES specific guidance for permit writers. The updated NPDES guidance suggested not only required monitoring and reporting of PFAS in discharges, but also suggested including best management practices (BMPs) for PFAS reduction as permit conditions. Suggested BMPs include product substitution (where reasonable alternatives to PFAS containing products are available), accidental discharge minimization (good housekeeping provisions), and equipment decontamination or replacement requirements. EPA further suggests permit writers require facilities to conduct a PFAS pollution prevention/source reduction evaluation within 6 months of the effective date of the permit. This required review would evaluate whether the facility uses or has historically used any products containing PFAS, whether use of those products or legacy contamination reasonably can be reduced or eliminated, and a plan to implement those steps. The facility would be required to implement the plan within 12 months of the effective date of the permit. Finally, the facility would submit an annual status report to the permitting authority including a list of potential PFAS sources, summary of actions taken to reduce or eliminate PFAS, PFAS source reduction implementation steps, source monitoring results, effluent results for the previous year, and adjustments to the plan, based on the findings.

Some initial steps toward numeric PFAS effluent limitations have also been taken. In April 2022, EPA issued draft aquatic life criteria for two PFAS compounds (PFOA and PFOS). In April 2023, EPA issued a proposed rulemaking to establish Maximum Contaminant Levels (MCLs) under the Safe Drinking Water Act for PFOA and PFOS. The finalization of aquatic life criteria and MCLs are precursors for state water quality standards, which in turn allow permitting authorities to establish numeric effluent limits. Although EPA has not yet built out the regulatory framework needed for PFAS permit limits, facilities should begin thinking about the potential for non-numeric permit conditions related to PFAS. If your permit is up for renewal soon, you should expect your permit writer to propose some or all of the conditions discussed here. To make ready, begin reviewing facility records for current or historic use of PFAS containing products, begin reviewing potential product replacement options, evaluate decontamination or replacement of PFAS contaminated equipment, and begin researching available treatment technologies. Like it or not, PFAS regulation in wastewater permits is here to stay, and to be prepared in advance of its inclusion in your permit will position your facility for a competitive advantage and for a clean compliance history.

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