



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

# Addressing PFAS Discharges in NPDES Permits/Pretreatment and Monitoring Programs: U.S. Environmental Protection Agency Issues December 5th Guidance

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The United States Environmental Protection Agency ("EPA") issued a December 5th memorandum titled: *Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs ("Memorandum")*

The *Memorandum* is transmitted from EPA Assistant Administrator for Water, Radhika Fox, to the Regional Water Division Directors, Regions 1-10.

The stated purpose of the *Memorandum* is to provide the states direction on how to use Clean Water Act National Pollutant Discharge Elimination System ("NPDES") and pretreatment requirements to address per- and polyfluoroalkyl substances ("PFAS").

The *Memorandum* includes a recommendation that states utilize the most current sampling analysis methods in their delegated NPDES programs to identify known or suspected sources of PFAS. Further, in the event sources of PFAS are identified, it is recommended the state undertake actions using pretreatment and NPDES permitting authorities to impose technology-based limits on such sources.

EPA also views the *Memorandum* as a tool to help it obtain comprehensive information through monitoring on the sources or quantities of PFAS discharges.

PFAS are a group of man-made chemicals that have been used in various industrial applications and consumer products for a number of years. Properties of these chemicals include resistance to heat, water, and oil. They have been described as persistent in the environment and resist degradation. Potential human exposure to PFAS includes pathways through drinking water, air, or food.

PFAS may potentially affect industrial dischargers and public owned treatment works ("POTWs") in a number of ways. For example, public owned treatment works receive discharges that may contain PFAS from a number of commercial and industrial sources. A further complication in the case of POTWs is the fact that conventional POTW wastewater treatment does not effectively remove PFAS that it receives. In addition, concern has been expressed that PFAS can unnecessarily adversely affect a POTW's ability to manage municipal biosolids.

EPA had previously issued a memorandum titled:

*Interim Strategy for Per- and Polyfluoroalkyl Substances in Federally Issued National Pollutant Discharge Elimination System Permits*

This memorandum had made various recommendations for addressing PFAS in the context of NPDES permitting.

A few states have addressed PFAS in their NPDES permitting programs. Examples include states such as:

- Michigan (Added PFAS sampling to some NPDES permit compliance sampling inspections)
- California (Issued Order WQ2020-0015-DWQ requiring that POTWs submit certain information regarding PFAS)
- North Carolina (Prior subject of a lawsuit by the Southern Environmental Law Center for alleged violations of the Clean Water Act and Resource Conservation and Recovery Act because of discharge of PFAS from a point source into a waterbody without an NPDES permit)

The December 5th EPA *Memorandum* includes recommendations such as:

- Recommended for Applicable Industrial Direct Dischargers
- Applicability
- Effluent-and wastewater residuals monitoring
- Best Management Practices (BMPs) for discharges of PFAS, including product substitution, reduction, or elimination of PFAS, as detected by draft method 1633
- BMPs to address PFAS-containing firefighting foams for stormwater permit
- Permit Limits
- Recommended in the Memorandum for POTWs include:
- Applicability
- Effluent, influent, and biosolids monitoring
- Pretreatment program activities
- Recommended Biosolids Assessment
- Where appropriate, states may work with their POTWs to reduce the amount of PFAS chemicals in biosolids, in addition to the NPDES recommendations in Section B above, following these general steps
- Recommended Public Notice for Draft Permits with PFAS-Specific Conditions
- In addition to the requirements for public notice described in 40 CFR 124.10, EPA recommends that NPDES permitting authorities provide notification to potentially affected downstream public water systems (PWS) of draft permits with PFAS-specific monitoring, BMPs, or other conditions

A copy of the *Memorandum* can be downloaded [here](#).