Clean Water Act Test Methods/Analysis of Contaminants in Effluent: U.S. Environmental Protection Agency Proposal Providing Update

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The United States Environmental Protection Agency ("EPA") published a proposed rule in the January 21st Federal Register proposing changes to its test procedures required to be used by industries and municipalities when analyzing the chemical, physical, and biological properties of wastewater and other samples for reporting as required by the Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit program. See 90 Fed. Reg. 6967.

The Clean Water Act requires that EPA promulgate test procedures (i.e., analytical methods for analysis of pollutants).

EPA states that promulgating new methods and updating the tables of approved methods increases the quality and consistency of data collected.

EPA is proposing to add new EPA methods for per- and polyfluoroalkyl substances ("PFAS") and polychlorinated biphenyl ("PCB") congeners.

The proposed rule also adds methods previously published by certain voluntary consensus bodies that industry and municipalities use for reporting under the NPDES permit program. Further, EPA also proposes to withdraw the seven Aroclor (PCB mixtures) parameters. Sampling requirements for volatile organic compounds are also proposed to be simplified.

The relevance to the Clean Water Act NPDES program is that such documents are required to include conditions intended to ensure compliance of both:

- Technology-based requirements.
- Water quality-based requirements.

This will often include restrictions on the quantity of specific pollutants that can be discharged in addition to pollutants measurement and reporting requirements.

EPA will in some cases approve the use of more than one method or test procedure.

Examples of where EPA-approved analytical methods must be utilized include:

- Applications for NPDES permits.

- Sampling or other reports required under NPDES permits.
- Other requests for quantitative or qualitative effluent data under the NPDES regulations.
- State Clean Water Act 401 certifications.
- Sampling and analysis required under EPA's General Pretreatment Regulations for Existing and New Sources of Pollution.

A copy of the Federal Register notice can be found here.