

Water Regulatory Updates

Dipping our toes into recent topics

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Agenda

- ❑ ELGs for Steam Electric and Oil/Gas Extraction
- ❑ Drinking Water MCL
- ❑ Lead and Copper Rule
- ❑ CWA Facility Response Plan
- ❑ WOTUS
- ❑ City and County of San Francisco vs. U.S. EPA
- ❑ Permitting Updates





Effluent Limitation Guidelines (ELGs)

□ Steam-Electric Power Plants

- May 2024, U.S. EPA updated ELG Rule to have more stringent standards on coal-fired/steam-electric power plants. The main standard imposed zero-limitations for pollutants in the following waste streams generated at a facility:
 - Flue Gas Desulfurization (FGD) Wastewater
 - Bottom Ash Transport Water (BATW)
 - Combustion Residual Leachate (CRL)
- March 2025, U.S. EPA to reconsider the 2024 Rule as a part of deregulatory actions to increase power generation in America.
 - The U.S. EPA has specifically called out revising technology-based requirements for leachate.
- Notice of Proposed Rulemaking target for November 2025.
- Final Rule target for May 2026





Effluent Limitation Guidelines (ELGs)

□ Oil and Gas Extraction

- March 2025, U.S. EPA released statements that it will evaluate current ELGs for the oil and gas industry, in particular guidelines around the use of treated wastewater (produced water).
 - Reduced stringency and increased flexibilities to discharge from oil and gas extraction facilities.
 - Current rule only allows for treated water to be used in agriculture and wildlife propagation in the western United States.
 - New evaluation of rule may lead to treated water to have more beneficial reuse; including for critical minerals extraction, data center cooling, rangeland irrigation, fire control, power generation, and ecological needs.
- Currently have no updates on plan or implementation of new ELGs.



Drinking Water Maximum Contaminant Levels (MCLs)

- April 2024, the U.S. EPA finalized MCLs for the following PFAS

Compounds	MCL
PFOA	4 ppt
PFOS	4 ppt
PFHxS	10 ppt
PFNA	10 ppt
HFPO-DA	10 ppt
Mixtures containing two of more (PFHxS, PFNA, HFPO-DA, and PFBS)	1 (unitless) Hazard Index

- May 2025, the U.S. EPA will keep the current MCL for PFOA and PFOS. Planning on rescinding MCLs for the others.
- Compliance deadlines to be pushed to 2031.





Lead and Copper Rule Improvements (LCRI)

- U.S. EPA has signaled it is ready to move forward in defending itself in the litigation against the LCRI brought by the American Water Works Association (AWWA).
- Congressional repeal of LCRI failed in May 2025.
- U.S. EPA plans to provide “practical implementation flexibilities and regulatory clarity.”
 - In particular the lead service line replacement.
 - Currently must replace subject lead lines within 10 years of the October 2024 ruling.





Clean Water Act Hazardous Substance FRP

- ❑ Implementation delay – possibly to 2032
- ❑ Feedback on potential changes
 - Changes or clarifications to definitions
 - Increasing TQ to the originally proposed 10,000x RQ
 - Guidance on measuring one-half mile screening criterion
 - Modifying requirements around modeling worst case discharges and substantial harm certification form
 - Removing mention of EJ and climate change
 - Modifying exemptions including substances covered by 40 CFR Part 112 and wastewater treated by POTW under NPDES Permits
 - Changing how chemical reaction intermediates and byproducts are to be treated
 - Changing FRP requirements





Clean Water Act Hazardous Substance FRP

- What should I be doing?
 - Keep an eye out for updates
 - Think about providing input if/when U.S. EPA solicits feedback
 - Begin initial applicability evaluations based on chemical inventory and distance to navigable water
 - Brainstorm chemicals that can be swapped for current CWA Hazardous Substances
 - Develop plans/strategy to manage Hazardous Substances under thresholds
 - Await further guidance on modeling



Waters of the United States (WOTUS)

- ❑ Current administration is seeking to establish a durable WOTUS definition to give clarity and certainty going forward
- ❑ U.S. EPA held listening sessions earlier this year to gather feedback from stakeholders
- ❑ Spring 2025 Regulatory Agenda:
 - *The U.S. EPA and the U.S. Department of the Army are undertaking a rulemaking to revise key topics of the WOTUS definition in light of the SCOTUS decision in Sackett v U.S. EPA...including continuous surface connection, relatively permanent, and jurisdictional vs. non-jurisdictional ditches. These revisions focus on clarity, simplicity and improvements that will stand the test of time.*

City and County of San Francisco vs. U.S. EPA

- October 2024 the Supreme Court argued the authority of NPDES permits to prescribe “end-result” requirements, which “do not spell out what a permittee must do or refrain from doing but instead make a permittee responsible for the quality of the water in the body of water into which the permittee discharges.”
- March 2025 the Supreme Court ruled in a 5-4 decision that **the CWA does not have authority to impose narrative “end result” requirements referencing effect on the quality of the waters that receive it rather than the nature of the discharge itself**, and it is the U.S. EPA’s responsibility and expertise to determine what limits discharging facilities must meet.
- **U.S. EPA will be forced to remove “end-result” requirements from their NPDES Permits but could impose other requirements which would compensate for this loss.** This could include more stringent effluent discharge limits, or more frequent testing and reporting requirements.



Permitting Updates

- Multi-Sector General Permits (MSGP) are up for renewal in 2026, in both Louisiana and Texas.
 - Don't forget to start updating your SWPPP and submit your NOI!
 - Current Texas MSGP (TXR050000) will expire on August 14, 2026.
 - Comments on draft MSGP open to public soon, from November 15th to December 15th.
 - Anticipated changes include SIC clarification, potential new benchmark monitoring for certain sectors, electronic SWPPP acceptance, and NetDMR reporting requirements
 - Renewal deadline on November 11, 2026.
 - Current Louisiana MSGP (LAR050000) will expire on October 27, 2026.





Permitting Updates

- U.S. EPA plans to update the list of pollutants that NPDES permit applicants must report to include PFAS for several types of existing NPDES permit applications.
 - Proposed Rulemaking target of November 2025 with Final Rule target of May 2027.
- Texas Senate Bill 1302
 - TCEQ given authority to implement performance-based eligibility for general permits.
 - If a discharger doesn't have great compliance history, could be ineligible for general permit coverage permanently or temporarily until performance improves.





Permitting Updates

- Freshwater Ammonia Aquatic Life Criteria from LDEQ
 - Rule effective on November 20, 2024
 - Dischargers without ammonia limits in permits may see them in upcoming permit
 - More stringent standards for waters with certain aquatic life (such as mussels) present
 - To use less stringent standards, you must conduct a study to confirm absence of specified aquatic life



Questions or Comments?

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