

FEDERAL PFAS DEVELOPMENT: PRELIMINARY EFFLUENT GUIDELINES PROGRAM PLAN 15

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SUMMARY

The United States Environmental Protection Agency (“EPA”) has outlined additional steps that it plans to take to investigate and in some cases regulate the discharge of per- or polyfluoroalkyl compounds (“PFAS”) in certain industries’ wastewater. According to [EPA’s assistant administrator for water](#), “for the first time, EPA is committing to limit PFAS in wastewater discharges,” in part to protect drinking water supplies.

These PFAS-specific efforts are part of a larger plan, the “[Preliminary Effluent Guidelines Program Plan 15](#),” which covers other issues in addition to PFAS discharges in wastewater. EPA also published a helpful [fact sheet](#) regarding this topic.

The public comment period expires on [October 14, 2021](#), and impacted businesses and industry groups should consider submitting comments if they have concerns about the proposed plan.

The Plan specifically addresses the following industry sectors.

Wastewater Discharges from the PFAS Manufacturers

EPA announced that it plans to update the existing Effluent Limitation Guidelines (“ELGs”) for the Organic Chemicals, Plastics and Synthetic Fibers (“OCPSF”) industry sector “[to address PFAS discharges from facilities manufacturing PFAS](#).” The Plan does not identify what the new proposed ELGs will be, so impacted PFAS manufacturers should consider engaging with EPA to discuss appropriate ELGs, and to understand what PFAS compounds will be the subject of the ELGs.

Please see Section 6.4.1 of the [Preliminary Effluent Guidelines Program Plan 15](#) for additional information.

Facility Discharges from the Metal Finishing Industry

EPA has identified chromium electroplating facilities as “the most significant source of PFAS in the metal finishing point source category” because of the use of mist or fume suppressants containing PFAS substances. EPA determined that PFAS compounds are present in wastewater discharges from chromium electroplating facilities to surface waters and publicly owned treatment works (“POTWs”). EPA has also determined that the majority of chromium electroplating facilities are not monitoring for PFAS substances but may actually discharge PFAS into both surface waters and POTWs. Based on those conclusions, EPA plans to revise the existing Metal Finishing ELGs “to address PFAS discharges from chromium electroplating facilities.”

Once again, impacted facilities should evaluate whether public comments are warranted, and should look for opportunities to understand and participate in the discussions around the proposed ELGs, including determining which PFAS compounds will be subject to the ELGs.

Please see Section 6.4.2 of the [Preliminary Effluent Guidelines Program Plan 15](#) for additional information.

Discharges from the Pulp, Paper, and Paperboard Industry

Effluent guidelines for other substances in discharges from the pulp, paper, and paperboard industry have been developing for nearly [fifty years](#), however, EPA noted that only a small percentage of facilities currently monitor for PFAS substances. According to EPA, the pulp, paper, and paperboard industry continues to use PFAS substances “in limited quantities for the manufacture of food contact packaging and specialty paper products.”

EPA will continue to evaluate this industry with “particular attention to understanding the potential for legacy discharges from these facilities after the industry’s transition to PFAS-free additives.” EPA is not proposing any monitoring requirements or new ELGs at this time, but EPA intends to provide updates in future ELG program plans. In addition to any general public comments, EPA is specifically looking for any information or data “regarding PFAS use and discharge from the pulp and paper manufacturing industry.”

Please see Section 6.4.3 of the [Preliminary Effluent Guidelines Program Plan 15](#) for additional information.

Discharges from Textile and Carpet Manufacturers

EPA has determined that PFAS “are present in wastewater discharges from textile mills to POTWs.” EPA also identified PFAS contamination in [landfill leachate and textile and carpet manufacturing wastewater](#).

Similar to the pulp, paper, and paperboard industry, EPA is not proposing any monitoring or recordkeeping requirements, or new ELGs for textile manufacturers. EPA intends to evaluate textile manufacturers in a [separate detailed study](#) in future ELG program plans. In the meantime, EPA will

continue to gather data regarding the use, treatment, and discharge of PFAS from textile manufacturers. Accordingly, impacted industry groups should evaluate whether public comments are appropriate.

Please see Section 6.4.4 of the [Preliminary Effluent Guidelines Program Plan 15](#) for additional information.

Public Comment Period

In addition to requesting general comments regarding the entire Preliminary Plan 15, EPA has requested specific information regarding the following topics:

- A cross-category ranking analysis, or why EPA should prioritize certain industries for PFAS discharge issues;
- The capabilities, performance, and cost of membrane treatment technologies for industrial wastewater;
- How best to incorporate environmental justice into the effluent guidelines planning process; and
- The Preliminary Multi-Industry PFAS Study, and specifically from pulp and paper manufacturers and commercial airports.

To provide some necessary background, the Preliminary Multi-Industry PFAS Study is a recent EPA publication that evaluates discharges from five industrial point source categories: (1) OCPSF manufacturing; (2) metal finishing; (3) pulp, paper, and paperboard manufacturing; (4) textile mills; and (5) commercial airports.

See Section 3 of the [Preliminary Effluent Guidelines Program Plan 15](#) for additional information regarding the specific comments requested.

All public comments must be received on or before [October 14, 2021](#).

Conclusion

The plan for new ELGs and further data collection for certain industries is yet another step in EPA's ramped up approach to regulating PFAS. Businesses in industries that have historically manufactured or used PFAS compounds should take steps now to identify their potential PFAS risk, and where appropriate, try to engage in the regulatory process to mitigate that risk

If you believe that you may be impacted by Program Plan 15, or for any other inquiries regarding PFAS, please contact Tom Lee or John Kindschuh at Bryan Cave Leighton Paisner LLP.

RELATED PRACTICE AREAS

- PFAS Team

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