

# NYSDEC RELEASES NEW DRAFT GUIDANCE RELATED TO DISCHARGES OF PFOA, PFOS AND 1,4-DIOXANE FOR PUBLIC REVIEW AND COMMENT

*Hodgson Russ Environmental Alert*  
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On January 10, 2024, the New York State Department of Environmental Conservation (“NYSDEC”) commenced the public comment period for new draft guidance related to discharges of PFOA, PFOS and 1,4-Dioxane. This guidance establishes how the Guidance Values (“GV’s”) for these substances will be applied to State Pollutant Discharge Elimination System (“SPDES”) permits for Publicly Owned Treatment Works (“POTW’s”) to maximize health benefits and minimize economic impact.

This guidance establishes an initial implementation strategy for the GV’s released by NYSDEC on March 15, 2023, which set final ambient water quality guidelines for the same substances at issue in this guidance. The finalized GV’s for these substances include:

- A limit of 10 ppt of PFOA in finished drinking water.
- A limit of 10 ppt of PFOS in finished drinking water.
- A limit of 1 ppb of 1,4-Dioxane in finished drinking water.

As we have reported in the past, PFOA and PFOS are a family of more than 3,000 manmade fluorinated organic chemicals. These chemicals are most commonly used in non-stick coatings in products that resist heat, oil, stains, grease, and water. Research indicates that these substances do not degrade over time and can bioaccumulate in humans and aquatic life. 1,4-Dioxane is a compound historically used as a solvent stabilizer and is found in cosmetics, shampoos, detergents, and cleaning products. Widespread use of the substance as a stabilizer has been discontinued, but it remains in circulation as a purifying agent by the pharmaceutical industry and as a by-product present in many consumer goods.

The initial implementation strategy outlined in the Technical and Operational Guidance Series (“TOGS”) includes the following measures by NYSDEC to control and monitor discharges of these substances into New York water systems:

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- Where sufficient data is not already available, NYSDEC will send existing POTW's within a drinking water supply watershed or which recycle biosolids a Request for Information (RFI). To respond to the RFI, the POTW will provide results from representative samples of the influent and effluent levels for 1,4-Dioxane and PFOA/PFOS. The POTW will take these samples quarterly for a 12-month period.
- NYSDEC will be able to propose modifications to POTW SPDES Permits Under Active Review to include a monitoring program for PFOA/PFOS and 1,4-Dioxane.
- POTW's may be required to expand existing disclosure of industrial users to include influent sampling for PFOA/PFOS and 1,4-Dioxane as part of the regularly required pollutant scan process.
- Discharges by an industrial user of a POTW which may cause the introduction of any detectable amount of PFOA, PFOS, or 1,4-Dioxane as a discharge would potentially represent a "substantial change in character" and require adequate notice to NYSDEC by the POTW before accepting the discharge.

The draft TOGS can be viewed [here](#). A public comment period is in effect until February 9, 2024. After the 30-day comment period, the NYSDEC will make any changes it deems necessary and publish final guidance on the topic.

These changes are likely to impact POTW SPDES operational limitations over time, thus spilling over to industrial users. It'll be important for those with discharge permits with POTW's to be aware of the potential changes and how that may impact their discharge and treatment obligations in the future.

For questions regarding emerging contaminants, this draft guidance or submitting public comments, please contact [Michael Hecker](#) (716-848-1599), [Jeff Stravino](#) (716-848-1394), or any member of our [Environmental Practice](#).

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