

Using Existing Tools in the Clean Water Act to Prevent PFAS Pollution



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The Goal of the Clean Water Act

“It is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985.”

- 33 U.S.C. § 1251(a)(1)

Disclosure is Required

“Part of the permit applicant’s burden ... is to disclose all relevant information, such as the presence of known constituents in a discharge that pose a potential risk to human health.”

- *State of North Carolina v. The Chemours Company*, Amended Complaint at 6 (Apr. 9, 2018).

“To the extent that a permit holder discharges a pollutant that it did not disclose, it violates the NPDES permit and the Clean Water Act.”

- *Piney Run Pres. Ass'n v. Cnty. Comm'rs of Carroll Cnty., MD*, 268 F.3d 255, 268 (4th Cir. 2001).

Technology is Required

“Technology-based treatment requirements . . . represent the minimum level of control that must be imposed under section 402 of the Act.”

- 40 C.F.R. § 125.3

Preventing GenX Discharges

- Outfall 003
 - Technology: none → granular activated carbon wastewater treatment.
 - GenX: <17,000 ppt → non-detect in 59 of 62 samples.
- Seeps
 - Technology: none → flow-through cells with granular activated carbon.
 - GenX: <66,000 ppt → 17 ppt (310 ppt max).
- Process wastewater
 - Technology: none → reverse osmosis, granular activated carbon, and ion exchange system.
 - GenX: <10,500,000 ppt → non-detect in 62 of 74 samples.

Technology-Based Permit Limits: Groundwater Treatment System

- Model facility: Outfall 003 WWTP
 - Non-detect: 59 of 62 samples
 - Max GenX: 2.3 ppt
- Limits based on EPA Permit Writers' Manual method:
 - Daily max: 3 ppt
 - Monthly average: 2 ppt

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