PFAS Technical and Regulatory Update

Presented by

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March 7, 2024

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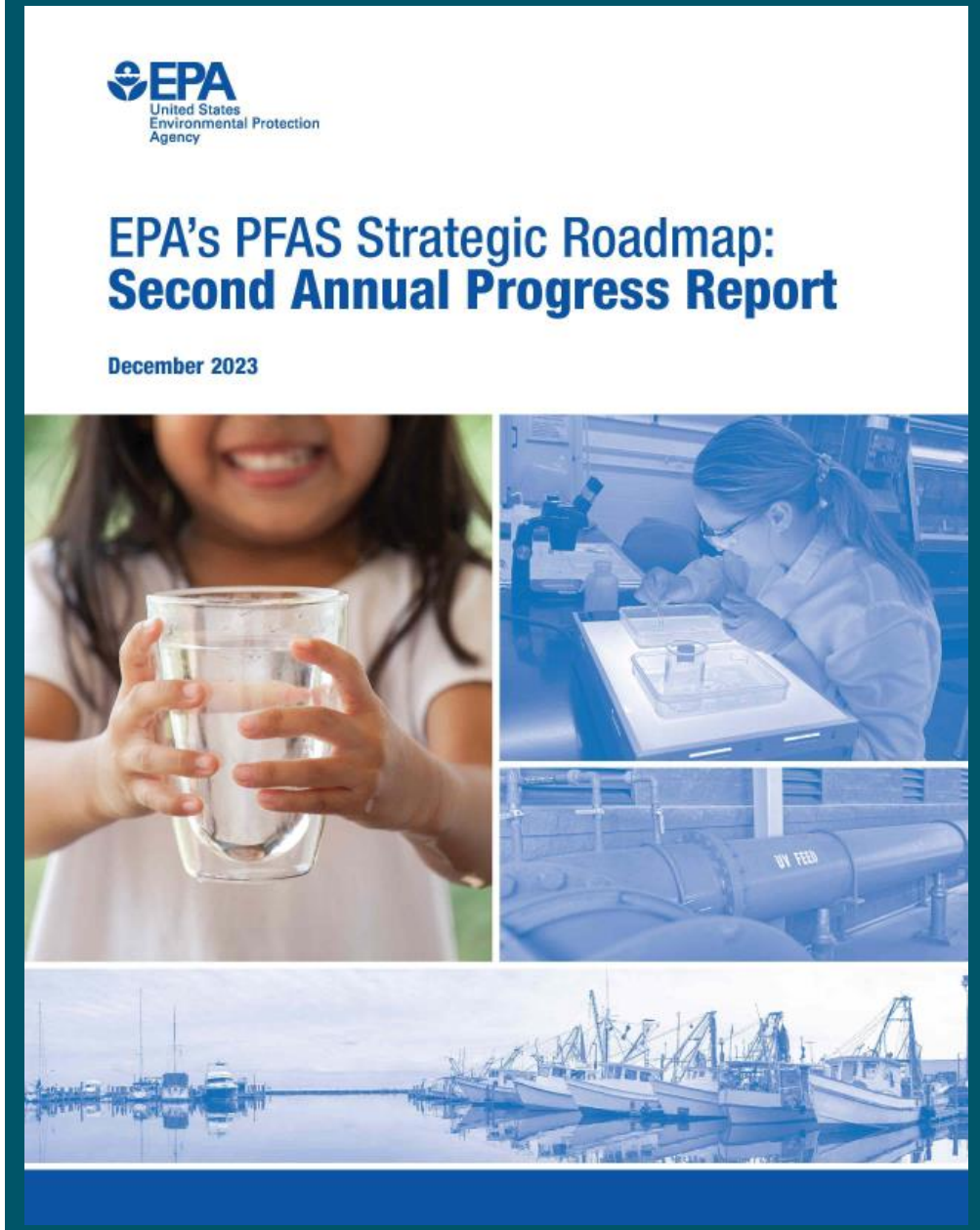
PFAS-free foam at Bush Intercontinental Airport, February 1, 2024

Photo: Fox26 Houston

EPA Designations

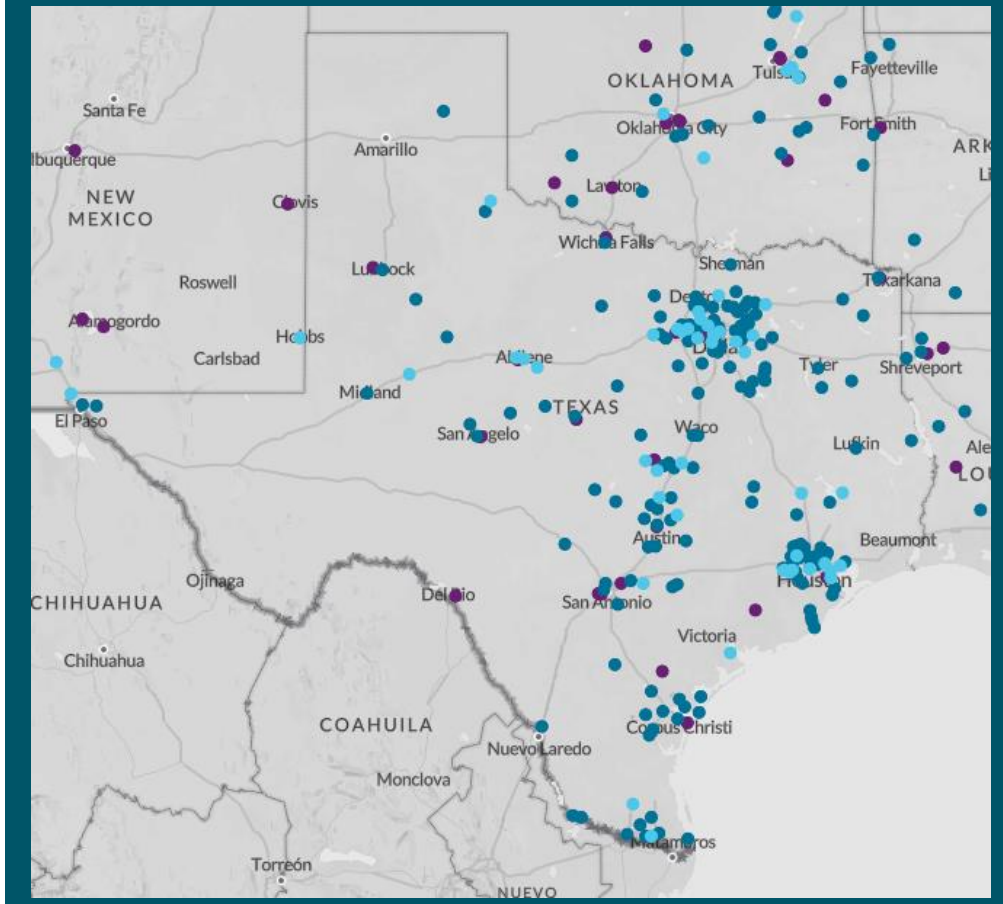
- RCRA Hazardous Constituents: 9 PFAS
  - Proposed February 2024
  - Comment period open
  - Steppingstone to possible listing as a hazardous waste
- Superfund Hazardous Substances: 2 PFAS
  - Maybe more?
  - Proposed 2022
  - Final rule expected soon
  - EPA promises "enforcement discretion" — but it's not all up to them
- SDWA Maximum Contaminant Levels: 6 PFAS
  - Proposed 2023
  - Final rule expected soon



EPA UCMR5 (2023 to 2025)

- Testing 29 PFAS in nation's water supplies
- 24% of expected data are in
- 49% of Texas public water systems have at least one detect
  - Many detects are of PFAS that have no proposed MCLs (yet)

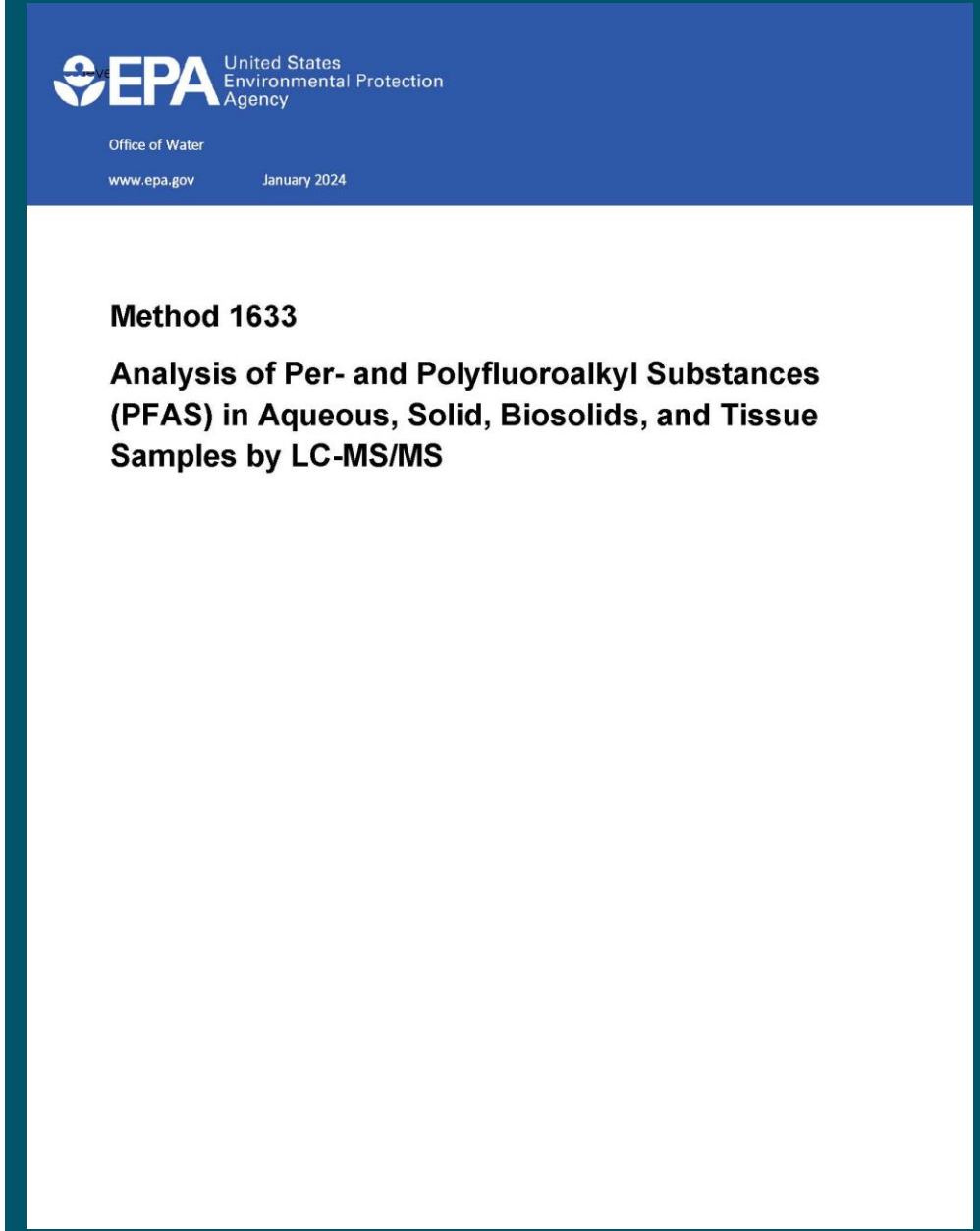
Data Maximums Above Proposed MCLs



Map source: https://www.ewg.org/interactive-maps/pfas_contamination/map/

New Testing

- EPA Method 1633 approved
  - 40 PFAS
  - Applicability: “wastewater, surface water, groundwater, and landfill leachate, as well as for soil, sediment, biosolids, and fish and shellfish tissue.”
- Drinking water: continue using methods 537.1 and 533
  - 29 PFAS combined

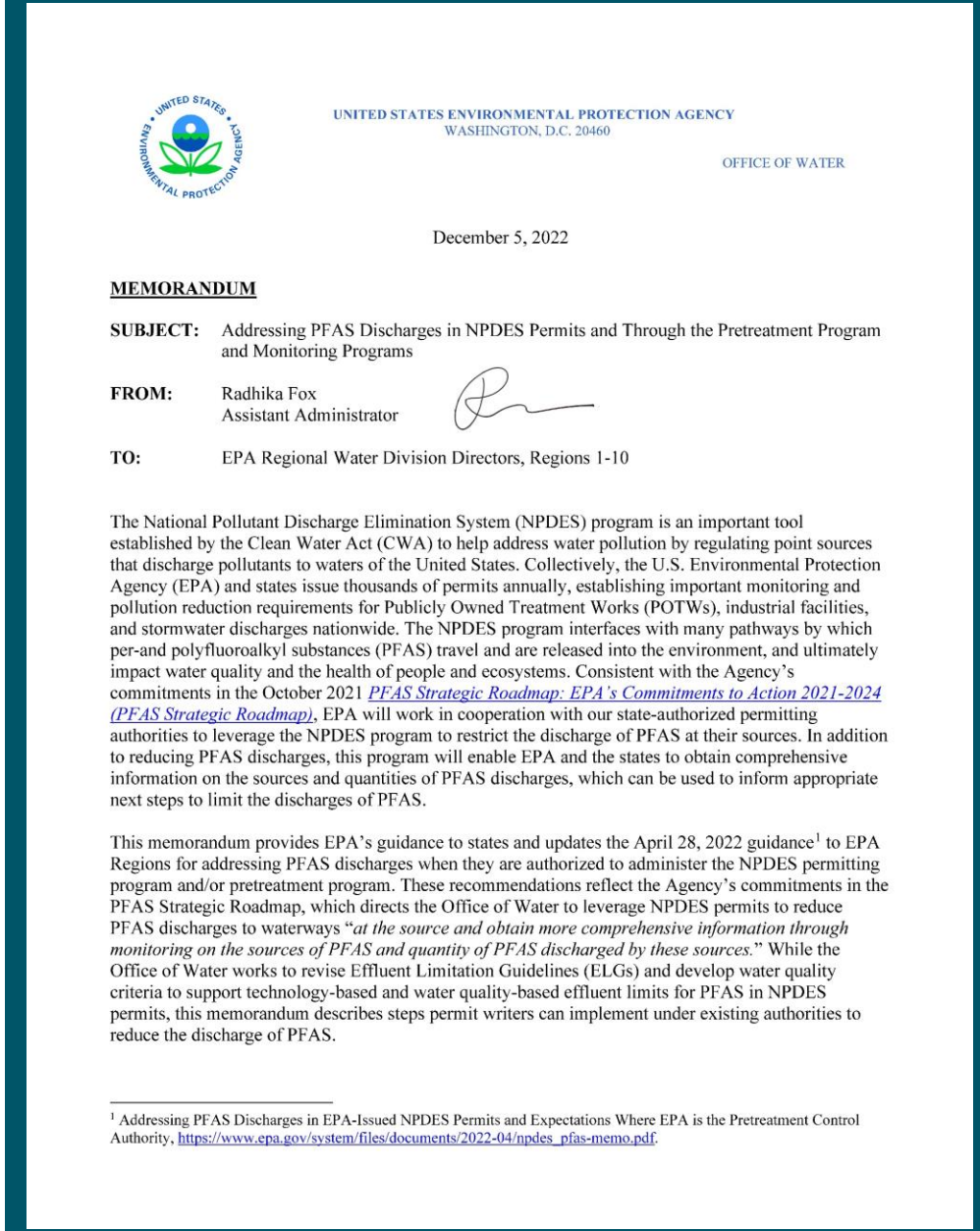


Biosolids

- Joint Principles for Preventing and Managing PFAS in Biosolids
  - 2023
  - "Aim to preserve flexibility and availability of options for the use and disposal of biosolids, while prioritizing public health protection."

NPDES

- December 2022: EPA recommends monitoring industrial and POTW discharges for PFAS
  - 40 PFAS, at least quarterly
  - TCEQ has authority to implement this



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

December 5, 2022

MEMORANDUM

SUBJECT: Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs

FROM: Radhika Fox
Assistant Administrator

TO: EPA Regional Water Division Directors, Regions 1-10

The National Pollutant Discharge Elimination System (NPDES) program is an important tool established by the Clean Water Act (CWA) to help address water pollution by regulating point sources that discharge pollutants to waters of the United States. Collectively, the U.S. Environmental Protection Agency (EPA) and states issue thousands of permits annually, establishing important monitoring and pollution reduction requirements for Publicly Owned Treatment Works (POTWs), industrial facilities, and stormwater discharges nationwide. The NPDES program interfaces with many pathways by which per-and polyfluoroalkyl substances (PFAS) travel and are released into the environment, and ultimately impact water quality and the health of people and ecosystems. Consistent with the Agency's commitments in the October 2021 *PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024 (PFAS Strategic Roadmap)*, EPA will work in cooperation with our state-authorized permitting authorities to leverage the NPDES program to restrict the discharge of PFAS at their sources. In addition to reducing PFAS discharges, this program will enable EPA and the states to obtain comprehensive information on the sources and quantities of PFAS discharges, which can be used to inform appropriate next steps to limit the discharges of PFAS.

This memorandum provides EPA's guidance to states and updates the April 28, 2022 guidance[1] to EPA Regions for addressing PFAS discharges when they are authorized to administer the NPDES permitting program and/or pretreatment program. These recommendations reflect the Agency's commitments in the PFAS Strategic Roadmap, which directs the Office of Water to leverage NPDES permits to reduce PFAS discharges to waterways "*at the source and obtain more comprehensive information through monitoring on the sources of PFAS and quantity of PFAS discharged by these sources.*" While the Office of Water works to revise Effluent Limitation Guidelines (ELGs) and develop water quality criteria to support technology-based and water quality-based effluent limits for PFAS in NPDES permits, this memorandum describes steps permit writers can implement under existing authorities to reduce the discharge of PFAS.

[1] Addressing PFAS Discharges in EPA-Issued NPDES Permits and Expectations Where EPA is the Pretreatment Control Authority, https://www.epa.gov/system/files/documents/2022-04/npdes_pfas-memo.pdf.

TCEQ Update

"TCEQ is maintaining situational awareness of pending EPA regulations and recommendations for ambient water quality criteria to protect aquatic life and human health from PFAS."

– Jill Csekitz at TCEQ

Litigation

- Drinking water suppliers' "multidistrict litigation" against 3M, DuPont, and others
  - Summary provided by Sara Thornton last fall
  - Lawsuit covers only water suppliers—not other PFAS exposures and potential liabilities
- Simply Orange lawsuit
  - "Simply Tropical" juice branded as all-natural
  - PFAS found in the juice
  - PFAS are not natural

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What questions do you have?