

NJDEP Anticipates Significant Updates to Surface Water Quality Standards

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What You Need to Know

- The NJDEP recently announced anticipated updates to New Jersey's Surface Water Quality Standards, which are expected to have impacts on properties with NJPDES permits, laboratories, and remediation sites.
- The revisions relate to 72 substances with freshwater criteria and 66 substances with saline criteria that are anticipated to become more stringent, while 13 substances with freshwater criteria and 19 substances with saline criteria are anticipated to become less stringent.
- NJDEP anticipates publishing the proposed amendments within the late 2023-early 2024 timeframe, at which point the public will have an opportunity to submit written comments.

The New Jersey Department of Environmental Protection (NJDEP) recently announced anticipated updates to New Jersey's Surface Water Quality Standards. The NJDEP's presentation, made during the August 29, 2023 stakeholder meeting, stated that the NJDEP anticipates revising the surface water criteria for 87 toxic substances and adding an additional 12 substances to the toxic substances list.

Specifically, the NJDEP's anticipated updates include:

- adding freshwater criteria for 11 substances including 1,4-dioxane, and 3 per- and polyfluoroalkyl substances (PFAS):
 - perfluorononanoic acid (PFNA)
 - perfluorooctanoic acid (PFOA)

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- perfluorooctanesulfonic acid (PFOS)
- revising the freshwater criteria for 87 substances;
- adding saline water criteria for 8 substances; and
- revising the saline water criteria for 86 substances.

A comparison between the anticipated new criteria and the current Surface Water Quality Standards reveals that 72 substances with freshwater criteria and 66 substances with saline criteria are anticipated to become more stringent, while 13 substances with freshwater criteria and 19 substances with saline criteria are anticipated to become less stringent.

The NJDEP's anticipated updates to the Surface Water Quality Standards are expected to have impacts on properties with New Jersey Pollutant Discharge Elimination System (NJPDES) permits, laboratories, and remediation sites. For those properties with NJPDES permits, these anticipated changes will require additional monitoring, laboratory expenses, and waste characterization reporting requirements.

For sites involved in the NJDEP's Contaminated Site Remediation & Redevelopment Program, once these changes are enacted, the new standards will apply to all remediation sites involving a groundwater to surface water pathway. The anticipated standards will impact sites currently undergoing remediation by requiring additional evaluation of potential surface water impacts including requiring added monitoring wells, sampling, and treatment of groundwater discharging to surface water bodies.

For properties that received a No Further Action determination, Response Action Outcome, or an approved Remedial Action Workplan, the anticipated standards would trigger additional remediation for substances that become more stringent by an order of magnitude. Finally, once enacted, sites subject to a groundwater remedial action permit would require that the licensed site remediation professional evaluate the new standards as part of the biennial certification.

The NJDEP anticipates publishing the proposed amendments to the Surface Water Quality Standards by the end of 2023 or early 2024. Upon publication, the public will have an opportunity to submit written comments to the NJDEP.

Please contact the author of this Alert with questions related to the NJDEP's anticipated standards or to discuss any possible impacts these new requirements may have on your property.

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