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Subject: FW: Draft rule for a PFAS minimization plan
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See the draft rule that incorporates Paul's framework and Julie's comments to the draft rule below.

Richard

Richard E. Rogers, Jr.
Director, Division of Water Resources
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From: Grzyb, Julie <julie.grzyb@deq.nc.gov>
Sent: Monday, March 3, 2025 6:21 PM
To: Rogers, Richard E <richard.rogers@deq.nc.gov>
Subject: Draft rule for a PFAS minimization plan

Dear Commissioners,
Attached is the proposed Draft rule for a PFAS minimization plan.
We have done our best to incorporate all of Paul's concepts and processes into this rule.
A rule that mirrors this rule will be drafted for direct dischargers.

I have marked in yellow what is in Paul's proposal either directly or in concept. The rest is what we believe is necessary to address APA requirements.
The first part are definitions, and Paul knows we needed to define them clearly – we removed one's not referred to in this rules, they were not necessary.

Things added –

- define what is to be reported: (b) (1) (B) all PFAS being tested; (c) (2) (E) what SIUs are to report; (e) (5) annual reports from SIUs; and (f) clarity on what POTWs are to report to the

Division

- state that Control Authority had to ask SIUs to do characterization monitoring (c) (1)
- Allow Control Authorities to do the sampling for the SIUs if they prefer (this is happening in Charlotte Water): (2)
- samples are to be representative of the discharge: (2) (B) (C)
- Allow for historical data to be used (DWR decided to accept 1633 test results only, other test method is not adequate): (3)
- PFAS sampling has been put in some permits already, don't want to make them redo it: (4)
- Need consistency and uniformity on who is to do a minimization plan: (d) (1) (A), (B), (C), and (D) (we changed the wording a little to make it 10% as opposed to 110% make sense – same objective) Michael Ellison supported this concept.
-
- APA requires defining which SIUs are to continue sampling PFAS and when, Paul agreed in concept, needed to explain in Rule: (d) (2)
- Needed an offramp for PFAS monitoring: (d) (3) and (7)
- APA requires timeframes: (e) (3) and (4)
- Rule needs to be clear on what minimization plan is being reviewed for: (6)
- Paul's proposal gives the POTWs authority to implement these rules on industrial users discharging to POTWs (smaller non-significant industrial users. This was good but we didn't want to force POTWs to make all IIU's subject to this rule so we put this clause at the end – will need to work with Paul to get what he wants so the POTWs have the flexibility they want(g)

We worked very hard on this, I hope you find it acceptable,
Julie

Julie A. Grzyb
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1 **15A NCAC 02H .0922 PFAS MONITORING AND MINIMIZATION PROGRAM**

2 (a) For purposes of this Rule, the following definitions shall apply:

- 3 (1) "EPA test Method 1633" means the EPA method for analysis of per- and polyfluoroalkyl substances
4 (PFAS) in aqueous, solid, biosolids, and tissue samples by LC-MS/MS. Versions released on or
5 after December 2022 by EPA are incorporated by reference, including subsequent amendments,
6 editions and versions. The method may be accessed at [https://www.epa.gov/cwa-methods/cwa-](https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas)
7 [analytical-methods-and-polyfluorinated-alkyl-substances-pfas](https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas) free of charge.
- 8 (2) "Gen X" means Hexafluoropropylene oxide dimer acid (HFPO-DA), CAS Registry Number 13252-
9 13-6;
- 10 (3) "Minimization plan" means a strategy to reduce or eliminate pollutants at the source before they are
11 discharged into the environment. A minimization plan includes:
- 12 (A) Best management practices, such as preventative measures to control and reduce pollution,
13 pollution prevention and good housekeeping practices such as regular changing or cleaning
14 of equipment and tanks;
- 15 (B) Other approaches to reduce or eliminate pollutants, such as identifying and eliminating
16 pollutant sources in raw materials, processes or operations; improving operational
17 efficiency to minimize waste generation; and product substitution;
- 18 (C) A timeline for implementation;
- 19 (D) Estimated annual reductions from implementation; and
- 20 (E) Reduction goals, such as a target concentration or % reduction.
- 21 (4) "PFAS" means per- and polyfluoroalkyl Substances;
- 22 (5) "PFOA means Perfluorooctanoic acid, Chemical Abstracts Service (CAS) Registry Number 335-
23 67-1;
- 24 (6) "PFOS" means Perfluorooctane Sulfonic Acid, CAS Registry Number 1763-23-1;
- 25 (7) "Targeted PFAS" means PFOS, PFOA and Gen X, either individually or combined;

26 (b) All PFAS monitoring outlined in this Rule shall be conducted as follows:

- 27 (1) Prior to EPA test Method 1633 being promulgated into 40 CFR Part 136:
- 28 (A) PFAS monitoring and reporting under this Subparagraph shall be conducted using the third
29 draft of EPA test Method 1633 released on December 2022 or a more recent draft or version
30 of EPA test Method 1633 released after December 2022.
- 31 (B) PFAS monitoring and reporting under this Subparagraph shall include all PFAS listed in
32 the draft or version of EPA test Method 1633 that is used.
- 33 (C) PFAS monitoring and reporting under this Subparagraph shall be exempt from the
34 requirement in 40 CFR 403.12 to be certified.
- 35 (D) PFAS monitoring and reporting under this Subparagraph shall not require field blanks to
36 be analyzed.

- 37 (E) PFAS monitoring and reporting under this Subparagraph shall be a representative grab
38 sample, unless the Control Authority approves use of:
- 39 (i) Grab-composite as specified in 40 CFR 403.12(g)(3); or
40 (ii) 24-hour to 72-hour composites collected by an automatic sampler cleaned and
41 prepared to prevent PFAS contamination.
- 42 (2) After EPA test Method 1633 is promulgated into 40 CFR Part 136:
- 43 (A) PFAS monitoring and reporting under this Subparagraph shall be conducted using the
44 version of EPA test Method 1633 that is promulgated into 40 CFR Part 136.
- 45 (B) PFAS monitoring and reporting under this Subparagraph shall include all PFAS listed in
46 version of the EPA test Method 1633 that is promulgated into 40 CFR Part 136.
- 47 (C) PFAS monitoring and reporting under this Subparagraph shall comply with the
48 requirement in 40 CFR 403.12 to be certified.
- 49 (D) PFAS monitoring and reporting under this Subparagraph shall require field blanks to be
50 analyzed.
- 51 (E) PFAS monitoring and reporting under this Subparagraph shall be a representative grab
52 sample, unless the Control Authority approves use of:
- 53 (i) Grab-composite as specified in 40 CFR 403.12(g)(3); or
54 (ii) 24-hour to 72-hour composites collected by an automatic sampler cleaned and
55 prepared to prevent PFAS contamination.
- 56 (c) PFAS initial characterization monitoring shall be required as follows:
- 57 (1) Within 120 days of the effective date of this Rule, the Control Authority shall notify all SIUs that
58 PFAS initial characterization monitoring shall be required as described in Subparagraph (c)(2) of
59 this Rule. The Control Authority shall specify in the notification whether the Control Authority or
60 SIU will be responsible for completing the monitoring. The Control Authority shall also notify any
61 new SIU that PFAS initial characterization monitoring shall be required as described in
62 Subparagraph (c)(2) of this Rule.
- 63 (2) SIUs or the Control Authority on behalf of the SIU shall characterize the PFAS concentrations in
64 their influent and their effluent by conducting PFAS initial characterization monitoring as follows:
- 65 (A) PFAS samples shall be collected quarterly at each influent and effluent for one calendar
66 year from the date the SIU is notified by the Control Authority;
- 67 (B) For influent sampling, PFAS sample location and timing shall be representative of the
68 influent for each influent;
- 69 (C) For the effluent sampling, PFAS sample location and timing shall be representative of the
70 effluent for each effluent;
- 71 (D) The PFAS samples shall be collected in accordance with the requirements in Paragraph (b)
72 of this Rule; and
- 73 (E) The PFAS monitoring data shall be submitted to the Control Authority as follows:

- 74 (i) PFAS monitoring data submitted shall at a minimum include the following:
- 75 (I) Facility name;
- 76 (II) Facility number or other identification if assigned by the Control
- 77 Authority;
- 78 (III) Sample date, location, collection type for each reported sample;
- 79 (IV) PFAS monitoring results for all PFAS listed in EPA test Method 1633
- 80 for each reported sample; and
- 81 (V) Detection levels for any reported non-detects based on the draft or
- 82 version of EPA test Method 1633 that is used.
- 83 (ii) PFAS monitoring data shall be submitted to the Control Authority in accordance
- 84 with the schedule outlined in the discharge permit issued to the SIU by the Control
- 85 Authority in accordance with Rule .0916 of this Subchapter;
- 86 (3) Representative historical PFAS sampling may be used to satisfy the requirement for PFAS initial
- 87 characterization monitoring outlined in Subparagraph (c)(2) of this Rule if all of the following
- 88 criteria are met:
- 89 (A) The PFAS sampling follows the requirements in Paragraph (b) of this Rule;
- 90 (B) The PFAS sampling follows the requirements in Subparagraph (c)(2) of this Rule; and
- 91 (C) The samples were collected within the three calendar years prior to the date the SIU is
- 92 notified by the Control Authority as outlined in Subparagraph (c)(1) of this Rule.
- 93 (4) PFAS monitoring required in a NPDES permit may be used to satisfy the requirement for PFAS
- 94 initial characterization monitoring outlined in Subparagraph (c)(2) of this Rule if all of the following
- 95 criteria are met:
- 96 (A) The PFAS sampling follows the requirements in Paragraph (b) of this Rule; and
- 97 (B) The PFAS sampling follows the requirements in Subparagraph (c)(2) of this Rule.
- 98 (d) PFAS ongoing monitoring shall be required as follows:
- 99 (1) For each SIU, within 120 calendar days of receiving all of the PFAS initial characterization
- 100 monitoring data as required in Paragraph (c) of this Rule, the Control Authority shall notify each
- 101 SIU whether PFAS ongoing monitoring will be required or not. The Control Authority shall specify
- 102 in the notification whether the Control Authority or SIU will be responsible for completing the
- 103 ongoing monitoring. The Control Authority shall require PFAS ongoing monitoring as described in
- 104 Subparagraph (d)(2) of this Rule for any SIU that meets any of the following criteria:
- 105 (A) The PFOA concentration in any of the quarterly effluent samples is at least 10 percent
- 106 greater than the PFOA concentration of the corresponding influent sample;
- 107 (B) The PFOS concentration in any of the quarterly effluent samples is at least 10 percent
- 108 greater than the PFOS concentration of the corresponding influent sample;
- 109 (C) The Gen X concentration in any of the quarterly effluent samples is at least 10 percent
- 110 greater than the Gen X concentration of the corresponding influent sample;

- 111 (D) The sum of the Targeted PFAS concentration in any of the quarterly effluent samples is at
112 least 10 percent greater than the sum of the Targeted PFAS concentration of the
113 corresponding influent sample;
- 114 (2) SIUs, or the Control Authority on behalf of the SIU, shall conduct ongoing PFAS monitoring of
115 their influent and effluent as follows:
- 116 (A) PFAS samples shall be collected twice per calendar year at each influent and effluent. One
117 sample shall be collected between January 1 and June 30 and the other sample shall be
118 collected between July 1 and December 31. Sampling shall continue each calendar year
119 unless the requirements in Subparagraph (d)(3) of this Rule are met;
- 120 (B) For influent sampling, PFAS sample location and timing shall be representative of the
121 influent for each influent;
- 122 (C) For the effluent sampling, PFAS sample location and timing shall be representative of the
123 effluent for each effluent;
- 124 (E) The PFAS samples shall be collected in accordance with the requirements in Paragraph (b)
125 of this Rule; and
- 126 (F) The PFAS monitoring data shall be submitted to the Control Authority as required in Part
127 (c)(2)(E) of this Rule.
- 128 (3) Ongoing PFAS monitoring required in Subparagraph (d)(1) of this Rule shall continue until all of
129 the following criteria are met:
- 130 (A) The PFOA concentration in four consecutive effluent samples are less than 10 percent
131 greater than the sum of the PFOA concentration of the corresponding influent samples;
- 132 (B) The PFOS concentration in four consecutive effluent samples are less than 10 percent
133 greater than the sum of the PFOS concentration of the corresponding influent samples;
- 134 (C) The Gen X concentration in four consecutive effluent samples are less than 10 percent
135 greater than the sum of the Gen X concentration of the corresponding influent samples;
136 and
- 137 (D) The sum of the Targeted PFAS concentration in four consecutive effluent samples are less
138 than 10 percent greater than the sum of the Targeted PFAS concentration of the
139 corresponding influent samples.
- 140 (e) Minimization plans for Targeted PFAS shall be required as follows:
- 141 (1) When the Control Authority notifies each SIU in accordance with Subparagraph (d)(1) of this Rule,
142 they shall also notify each SIU that meets any of the criteria in Parts (d)(1)(A), (B), (C) or (D) that
143 a minimization plan for Targeted PFAS that will reduce or eliminate Targeted PFAS loading to the
144 POTW is required.
- 145 (2) Within 365 days of receiving notification from the Control Authority that a minimization plan for
146 Targeted PFAS is required, a minimization plan for Targeted PFAS must be submitted by the SIU
147 to the Control Authority for review and approval.

- 148 (3) Within 120 calendar days of receipt of the minimization plan for Targeted PFAS from the SIU, the
149 Control Authority shall approve the plan or notify the SIU of any deficiencies identified in the plan
150 that must be addressed before approval. The SIU shall correct all deficiencies and resubmit a
151 complete and updated minimization plan for Targeted PFAS to the Control Authority within 60
152 calendar days.
- 153 (4) For SIUs, within 120 calendar days of the Control Authority's approval of the plan, the Control
154 Authority shall modify the SIU permit in accordance with Rule .0916 of this Subchapter to
155 incorporate the minimization plan into the SIU permit.
- 156 (5) The Control Authority shall require annual minimization plan for Targeted PFAS reporting in the
157 SIU permits that include at a minimum:
- 158 (A) A summary of the status of implementation of the minimization plan for Targeted PFAS;
159 and
- 160 (B) Any observed increases or decreases in the PFOA, PFOS or Gen X concentrations in the
161 samples collected before and after implementation of the minimization plan for Targeted
162 PFAS.
- 163 (6) The minimization plan for Targeted PFAS shall be reviewed every two years after the SIU permit
164 is modified in accordance with Subparagraph (e)(4) of this Rule. If the SIU's reduction goals in
165 their approved minimization plan for Targeted PFAS are not met, then the SIU shall provide an
166 updated minimization plan for Targeted PFAS to seek additional reductions to the Control Authority
167 for review and approval in accordance with Subparagraphs (e)(2) and (3) of this Rule.
- 168 (7) Once all of the criteria in Parts (d)(3)(A), (B), (C) and (D) are met, the requirements in
169 Subparagraphs (e)(6) and (7) of this Rule shall no longer be required from the SIU.
- 170 (f) In the Pretreatment Annual Report submitted to the Division as required in Rule .0908 of this Subchapter, the
171 Control Authority shall submit a PFAS Addendum that includes:
- 172 (1) A summary of the PFAS monitoring data received from all SIUs as required in Paragraphs (c) and
173 (d) of this Rule;
- 174 (2) A summary of the implementation status for all approved minimization plans for Targeted PFAS;
- 175 (3) A summary of the estimated annual reductions of Targeted PFAS reaching the POTW from
176 implementation of the approved minimization plans for Targeted PFAS; and
- 177 (4) A list of any enforcement actions taken for failing to conduct ongoing PFAS monitoring, failing to
178 provide a minimization plan for Targeted PFAS or for failing to implement an approved
179 minimization plan for Targeted PFAS;
- 180 (g) If the Control Authority identifies any IU that contributes PFAS to the POTW based on INSERT LANGUAGE
181 (Division will work with stakeholders on the criteria to determine which IUs will be subject to this rule), then the
182 Control Authority shall notify that IU that they are subject to the requirements outlined in Paragraphs (c), (d), and (e)
183 of this Rule.

184 (h) Nothing in this Rule limits the Control Authority’s authority to impose additional monitoring, reduction
185 requirements, control or treatment requirements, or any other requirements as authorized in Section .0900 of this
186 Subchapter.

187 (i) Nothing in this Rule limits the Commission’s or Division’s authority under the Clean Water Act, under the North
188 Carolina General Statutes, or under other Rules within the North Carolina Administrative Code.

189

190 *NOTE – a rule that mirrors this rule will be drafted for direct dischargers. Included in that rule will be a requirement*
191 *for POTWs with approved pre-treatment programs to conduct quarterly monitoring of their influent and effluent for*
192 *PFAS.*

193

194 *History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(b); 143-215.1(c); 143-215.3(a)(1); 143-*
195 *215.3(a)(2); 143-215.3(a)(14); 143-215.6A; 143-215.6B; 143-215.6C; 143-215.65; 143-215.66;*
196 *143-215.67; 143-215.69*

197 *Eff. DATE;*