



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 6 2018

The Honorable Bill Rabon
North Carolina Senate
North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, North Carolina 27601-2808

Dear Mr. Rabon:

Thank you for your January 23, 2018, letter to my office regarding the discovery of per- and polyfluoroalkyl substances (PFASs) in drinking water drawn from the Cape Fear River. In your letter you requested information and assistance from the EPA in assessing the ability of North Carolina's National Pollution Discharge Elimination System (NPDES) permitting program and the state's public water supply program to protect public health and the natural environment.

Your letter posed several questions regarding authorities and requirements under the Clean Water Act (CWA) and Safe Drinking Water Act. The EPA's responses are provided below.

- Does the CWA allow regulation of these compounds when there are no Federal standards?

Yes, under the CWA, compounds without a federal standard, such as PFASs, are regulated as "pollutants," and a discharge of any pollutant into waters of the United States is prohibited unless authorized by a permit.

- What are the specific disclosure obligations of permit holders?

Under federal NPDES regulations, applicants are required to provide specific information to assess the discharges of the facility that inform whether and under what conditions to issue a permit. States may also have additional application requirements pursuant to state regulations. In addition to disclosure requirements during the application process, NPDES regulations and permit conditions impose ongoing reporting obligations. Permittees must also report failures to submit any relevant facts or submissions of incorrect information in a permit application. NPDES permit authorization extends only to discharges and pollutants that were disclosed and within the contemplation of the permitting authority when issuing the permit.

- What is the appropriate level of public involvement in settlement agreements regarding enforcement actions under the CWA?

Federal regulations at 40 CFR Section 123.27(d) regarding state NPDES programs establish requirements for public participation in the state enforcement process. States must comply with these requirements at a minimum, but can go further in establishing procedures for citizen involvement in NPDES enforcement.

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Your letter also requested that the EPA provide assistance to North Carolina through an audit of the state's NPDES permitting program and public water supply program, and by sharing information or guidance that is available from the federal government regarding the health threats posed by PFASs.

The EPA has closely monitored actions the state has taken regarding the discovery of PFASs in the Cape Fear River, and has provided assistance to the North Carolina Department of Environmental Quality (NCDEQ). As part of oversight, the EPA conducts audits of authorized state NPDES programs every five years. We reviewed North Carolina's program in 2015 and concluded the State's administrative process for informing the public about proposed NPDES discharges met federal requirements. Permit applications also met requirements for timeliness and completeness, and included appropriate monitoring requirements.

Along with NPDES audits, the EPA conducts reviews every three years of the Public Water System Supervision (PWSS) programs of states with primacy. In 2015, we conducted an audit of North Carolina's PWSS program and concluded that the state was effectively implementing its program.

We recognize the importance of ensuring effective communication and coordination on PFASs. In December, the EPA announced a new cross-agency effort to address PFASs using expertise from our air, chemicals, land, enforcement, research and water offices. We also actively work with other federal agencies to provide states with the tools they need to assess and address PFASs. We will continue to provide North Carolina with the most up-to-date guidance on public health threats posed by PFASs as new information comes available.

It is my goal that the information provided be of assistance to the committee. My office remains committed to supporting the State of North Carolina in the protection of public health and the environment. If you have questions or need additional information from the EPA, please contact me or Allison Wise, in the Region 4 Office of Government Relations, at (404) 562-8327.

Sincerely,

A handwritten signature in blue ink, appearing to read "Onis 'Trey' Glenn, III".

Onis "Trey" Glenn, III
Regional Administrator

cc: Mr. Michael Regan
Secretary, NCDEQ



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The Honorable Michael Lee
North Carolina Senate
North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, North Carolina 27601-2808

FEB 6 2018

Dear Mr. Lee:

Thank you for your January 23, 2018, letter to my office regarding the discovery of per- and polyfluoroalkyl substances (PFASs) in drinking water drawn from the Cape Fear River. In your letter you requested information and assistance from the EPA in assessing the ability of North Carolina's National Pollution Discharge Elimination System (NPDES) permitting program and the state's public water supply program to protect public health and the natural environment.

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Onis "Trey" Glenn, III
Regional Administrator

cc: Mr. Michael Regan
Secretary, NCDEQ



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The Honorable Trudy Wade
North Carolina Senate
North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, North Carolina 27601-2808

Dear Ms. Wade:

Thank you for your January 23, 2018, letter to my office regarding the discovery of per- and polyfluoroalkyl substances (PFASs) in drinking water drawn from the Cape Fear River. In your letter you requested information and assistance from the EPA in assessing the ability of North Carolina's National Pollution Discharge Elimination System (NPDES) permitting program and the state's public water supply program to protect public health and the natural environment.

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The Honorable Andy Wells
North Carolina Senate
North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, North Carolina 27601-2808

Dear Mr. Wells:

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