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CDPHE Issues New Changes Regarding PFAS

Insight — April 11, 2024

On February 29, 2024, the Colorado Department of Public Health and Safety (CDPHE) withdrew its prior amended version to the Industrial Stormwater General Permit for Non-Extractive Industries, COR900000 — even before its effective date this summer (July 1, 2024).

Subsequently on March 14, 2024, CDPHE issued a public notice of the new draft modifications for its proposed changes. Importantly, the deadline for the public's participation during this comment period is on **Monday, April 15, 2024**.

CDPHE made certain corrections and is proposing new provisions to COR900000, to incorporate amendments to Regulation 61.8(8) for Discharges to Surface Water - Waters of the State of Colorado that regulate the use of PFAS or Aqueous film-forming foam (AFFF) effective this year.

An overview of the new draft modification proposes two main categories of changes as follows:

1. **Changes from January 31, 2024, Modification (Re-noticed)**

- Revisions to language clarifying that “routine maintenance” means taking a proactive approach to avoid effluent violations under the permit. Accordingly, this revision is also distinguishable from the permit's “corrective action” requirement which is more reactionary in nature.
- Revising the permit's practice-based limits which require permittees to “prevent the contribution of PFAS-containing materials to stormwater discharges, including from all areas that contribute stormwater runoff of the outfalls.” As such, this requirement does not mean a “zero discharge limit.” CDPHE also replaced the word “residuals” with “PFAS-containing foam” to further distinguish from a zero-discharge limit.
- Revisions to the Sample Type and Requirements section removed the permit's composite sample requirements and replaced them with “broader language to facilitate flexibility in sample design.”

2. **CDPHE's PFAS regulatory requirements originally noticed in January 2024 include:**

- Specifying when facilities may stop monitoring for PFAS, i.e., after having obtained four sample results.
- PFAS monitoring applies *only* to stormwater discharges to

water classified as water supply.

- Revising COR900000 to include prohibition of the use of PFAS-containing foams from testing and training. The revision makes clear that “finished PFAS AFFF must be removed from containment measure and placed in storage containers to the extent possible, but within 48 hours of use.”
- Residual Designation Authority (RDA) of Additional Airport Areas (Regulation 61.3(3)): A revised list of stormwater discharges associated with industrial activity which mandates a CDPHE permit now includes portions of air transportation facilities that are either involved in vehicle maintenance, equipment cleaning operations, airport deicing operations, and activities which fall under another category of industrial activity.

The current permit and accompanying fact sheet remain effective through July 1, 2024. But the prior permit issued in 2012 remains effective through June 30, 2024, and will be replaced by the reissued permit.

Owners and operators to those impacted industries are encouraged to consider providing comments before the deadline on **April 15, 2024**.

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