

Environmental Law & Litigation

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NJDEP Issues Fact Sheet on PFAS Environmental Sampling

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On August 28, the New Jersey Department of Environmental Protection (NJDEP) issued a “Per- and Polyfluoroalkyl Substances (PFAS) Sampling Fact Sheet” (Fact Sheet), setting forth several considerations for persons responsible for conducting remediation (PRCRs) and licensed site remediation professionals (LSRPs) when sampling for PFAS in the environment.¹

Key Points

- The Fact Sheet supplements and refers to NJDEP’s [Field Sampling Procedures Manual](#), which provides general guidance on environmental sampling, including under the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, for quality assurance (Chapter 2) and for Contaminants of Emerging Concern (Chapter 3).
- NJDEP’s goal is to improve the accuracy of PFAS environmental sampling by recommending measures to avoid cross-contamination from external PFAS sources. Noteworthy examples include using PFAS-free water for well drilling and construction, obtaining manufacturer certifications that sampling equipment contains no PFAS, decontaminating equipment before sampling, and sampling for PFAS separately from other compounds.² Notably, the Fact Sheet does not provide a definition of PFAS, and there are competing definitions among jurisdictions within and outside the United States.
- NJDEP is requesting that, under N.J.S.A. 58:10A-10.3, a section of the Water Pollution Control Act relating to agency information requests, PRCRs and LSRPs report to NJDEP “the full list of PFAS compounds analyzed and reported” under the selected lab analytical method.³ In other words, if a PRCR selects a lab method for analyzing PFAS samples, NJDEP expects that the results for the entire suite of PFAS under that analytical method will be reported.
- NJDEP also explains that “irrespective of whether [a] PFAS is currently listed as a hazardous substance,”⁴ PRCRs must investigate and remediate that PFAS if it is found through sampling and the PRCR and LSRP “ha[ve] reason to believe the presence of [the PFAS] poses a risk to public health or safety or the environment.”⁵
- The Fact Sheet also has a non-exhaustive list of five analytical methods, but it recognizes that choosing the appropriate method is “complex” and case-specific and involves consideration of several factors, including, among others, the media at issue and the “target analyte report list.”⁶
- NJDEP highlights that, although there are no multi-validated sampling methods for PFAS in air, NJDEP “continues to evaluate this exposure pathway for PFAS.”⁷
- NJDEP recommends that PRCRs and LSRPs pay “[s]pecial consideration” to PFAS-impacted investigation-derived waste (IDW), recognizing that disposal facilities have slowed or stopped accepting such wastes.⁸

Potential Implications

NJDEP is increasing its scrutiny of PFAS sampling methods, and heightened expectations are being placed on PRCRs and their LSRPs. As the Fact Sheet reflects, NJDEP expects PRCRs and LSRPs to sample for, report on,

investigate, and ultimately remediate a broad range of PFAS compounds, which will increase the importance of PRCRs' and LSRPs' selection of a PFAS analytical method. NJDEP will also scrutinize the measures taken by PRCRs and LSRPs to avoid cross-contamination of PFAS samples. The Fact Sheet further suggests that NJDEP continue to evaluate PFAS emissions in air. Indeed, contemporaneously with issuing this Fact Sheet, NJDEP (along with New Mexico and North Carolina) is **petitioning** the U.S. Environmental Protection Agency to list certain PFAS as hazardous air pollutants under the federal Clean Air Act.

PRCRs and LSRPs should carefully review the Fact Sheet and consult with technical and legal advisors on individual, site-specific potential implications and risk-mitigation strategies.

For more information about the Fact Sheet and PFAS, please contact the authors of this Client Alert.

¹ See NJDEP, **Per- and Polyfluoroalkyl Substances (PFAS) Sampling Fact Sheet** (Aug. 2024).

² *Id.* at 4-7.

³ *Id.* at 2.

⁴ Though not clear from the text of the Fact Sheet, this is likely a reference to the list of "hazardous substances" in Appendix A of NJDEP's Discharges of Petroleum and Other Hazardous Substances Rules, N.J.A.C. 7:1E-1.7, which other New Jersey environmental laws and rules—including the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b—cross-reference to define the scope of covered substances.

⁵ Fact Sheet at 2.

⁶ *Id.* at 1.

⁷ *Id.* at 6.

⁸ *Id.* at 7.

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