

GLWA Rules

CFR	Code of Federal Regulations	POTW	Publicly Owned Treatment Works
<u>EPA</u>	<u>Environmental Protection Agency</u>	RCRA	Resource Conservation and Recovery Act, being 42 U.S.C. § 6901 et seq.)
FOG	Fats, Oils and Grease	SDP	Special Discharge Permit
GLWA	Great Lakes Water Authority	SIU	Significant Industrial User
HIW	Hauled-in Waste	SNC	Significant Noncompliance
IWC	Industrial Waste Control	SWDA	Solid Waste Disposal Act, being 42 U.S.C. § 6901 et seq.
IU	Industrial User	TSS	Total Suspended Solids
IPP	Industrial Pretreatment Program		
<u>USEPA</u>	<u>Environmental Protection Agency</u>	ug/l	Micrograms per liter

GLWA Rules

acceptance of the Pollution prevention plan initiatives or BMP, the Control Authority will recognize continued performance under the Pollution prevention plan initiative or BMP as continued compliance. Upon approval of the Control Authority, these Pollution prevention plan initiatives or BMPs, shall be made an enforceable part of the Wastewater discharge permit.

- c) Local Pollutant Discharge Limitations for Mercury (Hg). In the event where one (1) or more of the measurements taken for Hg during a six (6) month period exceeds by any magnitude the limitation of 10 ugms/l, the Control Authority may require a User to develop and implement Pollution prevention initiatives or a BMP, as part of its response to the exceedance. Upon acceptance of the Pollution prevention plan initiatives or BMP, the Control Authority will recognize continued performance under the Pollution prevention plan initiatives or BMP as continued compliance. Upon approval of the Control Authority, these Pollution prevention plan initiatives or BMPs, shall be made an enforceable part of the Wastewater discharge permit.

d) PFAS Compounds:

1) General Requirement: Any User who manufactured PFAS Compounds; previously used, currently uses, or plans to use materials containing PFAS Compounds; and who has a discharge of wastes and Wastewaters to the POTW, shall be required to develop, submit and implement plans for the reduction and elimination of the PFAS Compounds.

i) Plans shall be submitted to the Control Authority and shall include, but not limited to, monitoring, treatment, product substitutions, BMP or other management protocols, that the User will implement.

(1) For existing Users, these plans shall be submitted to the Control Authority within ninety (90) days of the effective date of these rules;

(2) For Users initiating discharge after the effective date of these rules, these plans shall be submitted to the Control Authority within ninety (90) days of the commencement of discharge to the POTW.

(3) Any monitoring program shall be conducted in accordance with sample collection methods defined by the EGLE or USEPA and analyzed in accordance with 40 CFR 136 or other approved methods recognized by the State of Michigan; or where USEPA or the State of Michigan has not established sample collection methods or approved analytical methods in 40 CFR 136, the methods shall be specified by GLWA.

ii) The Control Authority may require any User to conduct discharge monitoring; or the development and implementation of additional source reduction, control and elimination actions for PFAS Compound through a Wastewater discharge permit or equivalent control mechanism.

iii) This paragraph shall not apply to facilities classified as a Centralized Waste Treatment

Facility or any active/inactive landfill.

iv) This paragraph does not apply to domestic sources or activities involving commercial maintenance activities for carpet & upholstery cleaning.

2) Centralized Waste Treaters & Landfills: Any Centralized Waste Treatment Facility or an active/inactive landfill who either (i) accepts wastes and Wastewater containing PFAS Compounds for treatment and/or disposal, or (ii) who identifies PFAS Compounds in any wastes or Wastewaters received in accordance with paragraph II-1006-d)(2)(i), or (iii) who becomes or is made aware of PFAS Compounds present in the wastes and Wastewaters from any source, and discharges to the POTW, or (iv) who is notified by the Control Authority that its discharge contains PFAS Compounds; shall, develop, submit and implement a comprehensive “PFAS Compound Program” describing methods and procedures to identify, control, reduce, dispose of, eliminate and/or treat wastes and Wastewaters containing PFAS Compounds. At a minimum, the PFAS Compound Program shall include the following information, **as appropriate:**

i) The PFAS Compound Program must describe the method(s) and procedures used for screening and monitoring program for PFAS Compounds that may be present in any wastes or Wastewaters received for treatment or disposal.

(a) Any monitoring program shall be conducted in accordance with sample collection methods defined by the EGLE or USEPA and analyzed in accordance with 40 CFR 136 or other approved methods recognized by the State of Michigan; or where USEPA or the State of Michigan has not established sample collection methods or approved analytical methods in 40 CFR 136, the methods shall be specified by GLWA.

(b) The screening and monitoring program shall include a protocol for notifying the Control Authority when wastes and Wastewaters containing PFAS Compounds are identified;

(c) All results and information from the screening and monitoring program shall be available to the Control Authority and copies of such information shall be made available upon written request.

ii) The PFAS Compound Program must describe the waste and Wastewater treatment or disposal protocols and practices used, and any disposal and/or treatment technologies used to remove and/or treat wastes and Wastewaters containing PFAS Compounds.

(a) This information shall be supported by technical documentation defining the effectiveness of such treatment protocols and/or practices used, including the removal efficiency based on mass loadings (lbs) of PFAS Compounds before and after treatment, and account for dilution effects resulting from the combination of other waste streams, if applicable. Such demonstration may be made through bench-scale

GLWA Rules

testing or site-specific data. Where site-specific data is used, a minimum of one (1) week of data must be collected.

(b) The facility shall assess or re-assess, the removal efficiency of its operations for PFAS Compounds at least annually;

iii) The PFAS Compound Program must describe a self-monitoring program acceptable to the Control Authority. This self-monitoring program shall include the discharge to the POTW and may include samples within the treatment process. The self-monitoring program shall identify the sampling protocols and methods of analysis used, and the authority for such methods or analysis (if other than the State of Michigan or USEPA).

iv) The PFAS Compound Program must describe a Recordkeeping Program that at a minimum, documents the volume(s) of PFAS Compounds wastes and Wastewaters received; the mass of PFAS Compounds in pounds received by the facility and any mass (in pounds) removed by treatment, discharged to the POTW and disposed of through any other off-site source. Such information shall be summarized for each calendar month and submitted to the Control Authority by the 10th of the succeeding month.

v) The PFAS Compound Program may include BMP or other management protocols that will be used to control, reduce or eliminate PFAS Compounds from their discharge. Where a User develops BMP or other management protocols, it may submit such plans to the Control Authority for acceptance and incorporation into the facility's Wastewater discharge permit.

vi) The requirements of subparagraphs (i) – (v) shall be submitted as a Material and Substantial change and request for Permit Modification within ninety (90) days of the effective date of these rules or ninety (90) days from the commencement of discharge.

vii) The Control Authority may require any Centralized Waste Treatment Facility or an active/inactive landfill to conduct discharge monitoring; or to develop a PFAS Compound Program; or the development and implementation of additional source reduction, control and elimination actions for PFAS Compound through a Wastewater discharge permit or equivalent control mechanism.

Following acceptance of the facility's PFAS Compound Program, the Control Authority shall review and incorporate its PFAS Compound Program into a Wastewater discharge permit or equivalent control mechanism, as an enforceable part of the permit.

3) Perfluorochemical Fire-fighting Foams and Agents – Any user who stores or uses Firefighting foams using Perfluorochemicals with a carbon chain of 6 or more, shall develop and implement the following plans:

i) Specific reference and controls for contained in a spill/Slug control plan and submit this to the Control Authority. *At a minimum, such plans shall identify areas where the Fire-fighting*

GLWA Rules

Foams and Agents would be contained and have no potential to reach a drain or sewer; and areas that are not contained and have a potential to reach a drain or sewer and **Such plans shall be reviewed and updated as necessary but shall not exceed three (3) years.**

ii) Training Operations and Exercises – Plans for the proper use and storage and use of firefighting foams during the exercise and shall employ best environmental and public health practices for the use of Perfluorochemicals Fire-fighting Foams and Agents in training including but not limited to containment, and proper disposal.

iii) Fire or Emergency Events – (Potential to drain to sewer) – For those areas where there is a potential for the Fire-fighting Foam and Agents to reach a drain or sewer, the User shall provide notice to the POTW within forty-eight (48) hours of a Fire or other emergency event where Perfluorochemical Fire-fighting Foams and Agents were used including:

(1) Purpose for use of foam or agent;

(2) Physical address where foam or agent was used;

(3) Actual or estimated quantities of foam or agent concentrate used and quantity of water used to produce foam

(4) Name(s) of water bodies potentially affected by foam and agent or other firewater to storm or combined sewer

(5) Practices employed for cleanup and disposal of materials contaminated by the foam or firewater.

iv) Fire or Emergency Events (No potential to drain to sewer) – For those areas where there is no potential for the Fire-fighting Foam and Agents to reach a drain or sewer, the User shall collect, clean-up and dispose of the Fire-fighting Foam and Agents and any fire-fighting water, in accordance with their BMP. A report shall be provided to the POTW addressing the completion of the clean-up and disposal of the materials within 5-days of the event and, as applicable, include a schedule for completion of the clean-up and disposal.

v) A BMP or other management program shall be established and implemented for the collection and disposal of Perfluorochemical Fire-fighting Foams and Agents with a carbon chain of six or greater. The plan shall include any efforts to identify alternative products.

vi) Any monitoring program shall be conducted in accordance with sample collection methods defined by the EGLE or USEPA and analyzed in accordance with 40 CFR 136 or other approved methods recognized by the State of Michigan; or where USEPA or the State of Michigan has not established sample collection methods or approved analytical methods in 40 CFR 136, the methods shall be specified by GLWA.

Copies of these plans shall be submitted to the Control Authority within ninety (90) days of the effective date of these rules.

4) The GLWA may assign any User who has previously used or received, or will use or receive PFAS Compounds, to a User Class for reimbursement of costs incurred by GLWA to monitor and enforce

this requirement, and for which the Board determines costs should be assigned.

5) The GLWA reserves the right to take enforcement action for any violations as described in Section II-1003, and as described in Sections II-1004 and II-1005.

- f) The Control Authority may require any User to implement Pollution prevention plan initiatives, or BMP, as part of an enforcement response, or as necessary to comply with its NPDES permit.
- g) A User may seek to terminate a BMP when it has demonstrated compliance for a twelve (12) month period supported by a minimum of four (4) analytical test results and a report describing the management and operating procedures used to support the compliance status. Upon acceptance of this demonstration of compliance, the User shall be relieved of this implementation requirement.

Section II-1007. Remedies Nonexclusive

The remedies provided for in these rules are not exclusive. Enforcement of pretreatment violations will generally be in accordance with the GLWA's Control Authority's enforcement response plan. However, the Control Authority may take other action against any User when the circumstances warrant. Further, the Control Authority is empowered to take more than one enforcement action against any noncompliant User.

Article XI AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Section II-1101. Upsets.

An upset shall constitute an affirmative defense to an action brought for noncompliance with National Categorical Pretreatment Standards ~~and/or Local Pollutant Discharge Limitations~~ where the requirements of subsection (a) of this section are met.

- a) An Industrial User who wishes to establish an upset as an applicable affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:
 - 1) An upset occurred and the Industrial User can identify the cause(s) of the upset;
 - i. At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - ii. The Industrial User has submitted the following information to the Control Authority, orally or in writing, within twenty-four (24) hours of becoming aware of the upset and, where this information is provided orally, a written submission must then be provided within five (5) days:
 - (a) A description of the discharge and cause of noncompliance;
 - (b) The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - 2) In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an