

# U.S. Supreme Court Limits EPA's Clean Water Act Authority to Impose Water Quality Standards

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On Tuesday, March 4, 2025, a divided U.S. Supreme Court held that the Clean Water Act (CWA) does not authorize the Environmental Protection Agency (EPA) to impose what the Court called “end-result” requirements in discharge permits — that is, permit provisions that make the permittee responsible for achieving water quality standards in the receiving water without specifying the concrete steps necessary to do so. The Court’s ruling in [\*City and County of San Francisco v. Environmental Protection Agency\*](#) will require EPA and state regulators to include more specific conditions in wastewater discharge permits, potentially adding delays and substantial expense to the permitting processes. It also will have an impact on the enforceability of “end-result” terms in current discharge permits.

## Background

Under the CWA and the National Pollutant Discharge Elimination System (NPDES), EPA and authorized state agencies issue permits that impose requirements for the discharge of pollutants into waters of the United States, including through wastewater and stormwater. NPDES permits contain various types of provisions, such as numerical effluent limitations, which may be technology- or water-quality-based, and non-numerical or “narrative” limitations (e.g., requiring the discharger to follow best management practices). Noncompliance with permit limitations exposes permittees to civil penalties and potential criminal prosecution.

The City of San Francisco operates a wastewater treatment facility operating pursuant to a NPDES permit issued by EPA. At issue in the case were two “end-result” requirements added to the facility’s 2019 renewal permit: one that “prohibits the facility from making any discharge that ‘contribute[s] to a violation of any applicable water quality standard’ for receiving waters” and one that “the City cannot perform any treatment or make any discharge that ‘create[s] pollution, contamination, or nuisance as defined by California Water Code section 13050.’ ” San Francisco challenged these “end-result” requirements in federal court, arguing that all NPDES permit limitations must be *effluent limitations*, and any other types of limitations exceed EPA’s authority. A divided panel of the U.S. Court of Appeals of the Ninth Circuit upheld the 2019 permit, holding that the CWA authorizes any limitations. San Francisco appealed, and the Supreme Court granted certiorari.

## The Supreme Court Rejects “End-Result” Requirements

In a 5–4 decision, the Court held that the plain language of the CWA requires EPA to set specific limitations and that “end-result” requirements exceed EPA’s authority. Note that the Court did not adopt San Francisco’s argument that all NPDES limits must be *effluent limitations*. The Court explained, however, that the statute does *not* permit EPA to set generalized “end-result” requirements that, in essence, delegate responsibility to permittees to determine what must be done to meet water quality standards. Instead, EPA must “itself determine what a facility should do to protect water quality, and the Agency has ample tools to obtain whatever information it needs to make that determination.”

The Court’s reasoning hinged on the term “limitation.” According to the Court, NPDES permit limitations should be clear and actionable restrictions imposed by EPA, not something that requires a permittee to figure out what must be done. In further justifying its decision, the Court looked to the structure of the CWA, focusing particularly on the inclusion of a “permit shield” provision that protects permittees from liability as long as they comply with the terms of their permit. Imposing “end-result” requirements would undermine this shield, as “[a] permittee could do everything required by all the other permit terms, but if the quality of the water in its receiving waters dropped below the applicable water quality levels, it would face dire potential consequences.”

### **Key Takeaways**

The decision will have a clear impact on EPA’s NPDES permitting authority. How the issue plays out in each jurisdiction is less clear because many state and local agencies have authorized NPDES permitting programs that are permitted to be more stringent than the minimum requirements of the CWA. Presumably, however, those states and local agencies will need authority other than CWA Section 1311(b)(1)(C) for such terms. Furthermore, the decision does not necessarily provide grounds for reopening permits that were not timely challenged (but it could provide grounds to seek permit modifications or object to “end-result” conditions during the permit renewal process). It also likely will have an effect on the enforceability of “end-result” requirements in existing permits.

For businesses seeking permits, the decision requires EPA and state regulators to write wastewater permits with more specificity, which could delay and increase the costs of the permitting processes as agencies seek to gather the information necessary to develop more specific limitations. Facilities should review their NPDES permits for end-result requirements and consider whether permit modifications are appropriate as well as assess requirements imposed in newly issued or reissued permits.

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### **CONTACTS**

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