

## **SCOTUS Limits EPA’s Regulatory Authority Over Discharges Under the Clean Water Act: What It Means for Your Permits**

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The U.S. Supreme Court recently issued a significant ruling in [\*City and County of San Francisco v. Environmental Protection Agency\*](#) (“EPA”), curtailing how the EPA can regulate wastewater discharges under the Clean Water Act (“CWA”). The Court held that the EPA exceeded its statutory authority by imposing “end-result” conditions on permits, which made the permittee responsible for the quality of the receiving waterbody rather than clearly outlining specific, enforceable actions.

### **Key Takeaways**

The ruling directly affects municipalities and businesses—such as refineries and wastewater treatment facilities—that operate under the National Pollutant Discharge Elimination System (“NPDES”). Historically, many NPDES permits included broad, “narrative” provisions requiring compliance with water quality standards without specifying specific quantity limits and how to achieve them. These “end-result” conditions effectively held permittees liable for the quality of the receiving water, regardless of whether their discharges were the proximate cause of any violations.

The Court concluded that the CWA authorizes the EPA to impose specific, quantifiable “effluent limitations” on permit holders but does not require them to ensure the receiving water body meets the regulatory standards. This marks a departure from previous EPA practice, which had allowed non-numeric “end-result” requirements to serve as a backstop for water quality protections in cases where the EPA lacked sufficient data to determine explicit limits.

### **Implications for Permit Holders**

1. **Greater Regulatory Certainty:** Permit holders will now have clearer compliance obligations, as the EPA must define specific actions and effluent limitations, rather than relying on general prohibitions that could expose permittees to harsh penalties for circumstances beyond their control, such as upstream pollution.
2. **Potential for Permit Delays:** While this ruling may provide clarity, it may also slow down the NPDES permitting process. The EPA is now required to issue more detailed and quantifiable requirements, which could lengthen the permitting process, particularly for industries with complex discharges.
3. **Compliance and Enforcement:** For entities discharging pollutants, narrative conditions must now be tied to specific best management practices or technology-based standards that outline clear compliance steps. This helps permit holders ensure they are protected under the NPDES permit’s “shield” for attempted compliance.

## Conclusion

The ruling in *City and County of San Francisco v. Environmental Protection Agency* reshapes the landscape of wastewater discharge regulation under the Clean Water Act's NPDES program. By limiting the EPA's authority to impose "end-result" conditions and requiring more specific, quantifiable effluent limitations, the decision provides greater clarity and predictability for NPDES permits. The decision ensures that permit holders are no longer held liable for downstream water quality violations that may result from factors beyond their control. While this ruling may simplify compliance obligations and protect entities from unfair penalties, it may also introduce delays in the permitting process as the EPA adjusts to the new standards. Ultimately, the decision strikes a balance between environmental protection and regulatory certainty, fostering a more transparent and manageable framework for wastewater management and NPDES permitting.

GableGotwals' [Environmental and Natural Resources](#) will continue to monitor the effects of this decision and is available to review any permits that may be affected.



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