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[Supreme Court Invalidates Certain ‘Narrative’ Water Quality Limitations in NPDES Permits: BakerHostetler](#)

Key Takeaways:

- SCOTUS has directed EPA (and state counterparts) to more clearly “spell out what a permittee must do or refrain from doing” in NPDES permits. Broadly worded, non-specific, “end-result” narrative limits are no longer enforceable.
- Additional legal challenges over permissible vs. impermissible “narrative” limitations in NPDES permits now seem likely.
- Facilities should evaluate their NPDES permits to flag limitations that may no longer be enforceable.

On March 4, the U.S. Supreme Court (“SCOTUS” or the “Court”) issued a decision in *San Francisco v. EPA* that invalidated certain “end-result” water quality limitations in NPDES permits — specifically, those that “do not spell out what a permittee must do or refrain from doing” and instead generally “make a permittee responsible for the quality of water” in its receiving waterbodies. For example, limitations that prohibit a facility from “contributing to a violation of any applicable water quality standards” or “creating pollution, contamination, or a nuisance” under state law.

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BakerHostetler - Martin T. Booher, Thomas E. Hogan and Cory Barnes

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