

NPDES Compliance Inspection Manual

Appendix E



EPA Publication Number: 305-K-17-001
Interim Revised Version, January 2017

Appendix E –
Sample CWA Section 308 Information Collection
Request Letter (308 Letter)

CERTIFIED MAIL–RETURN RECEIPT REQUESTED

Date

Name
Address

Dear Name:

Enclosed is an Information Request (Request) issued to (company name), pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. Part 1318(a), which authorizes the U.S. Environmental Protection Agency (EPA) to request information required to carry-out the objectives of the CWA. The Request relates to waterbodies in your vicinity that are impaired by pollutants frequently associated with discharges from animal feeding operations. EPA needs to ensure that your facility is operating properly to protect water quality. Only one response is required from (company name) and your response to the Request must be post-marked no later than thirty (30) days from your receipt of this letter.

Please be advised that failure to respond to the Request within the thirty (30)-day period or provide full, complete, true and correct responses, may result in additional action requiring you to properly respond to the Request.

EPA urges you to give this matter your immediate attention and respond to this Request in a timely manner. Your response must be signed by an authorized official and should be mailed to (appropriate designated official) at the address above.

If you have any questions regarding this Request, you may contact (appropriate designated official).

Sincerely,

Director
Compliance Assurance and
Enforcement Division

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Number: (#)

(Contact Name)

(Company)

(Address)

Re: **Request for Information Pursuant to Section 308 of the Clean Water Act**
CWA-IR-15-025
(Company Name)
EPA ICIS NPDES Tracking No. (#)
(state)PDES General Permit No. (#)

Dear (contact name):

Section 308(a) of the Clean Water Act (“CWA”), 33 U.S.C. Part 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. Part 1311, the United States Environmental Protection Agency (“EPA”) shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

(Company name) obtained coverage under the (appropriate state program) Construction Activity Storm Water General Permit (“Construction General Permit” or “CGP”), (state program) Permit No., on or about (date) for the site. The CGP regulates storm water discharges to surface waters from construction activities, including clearing, grading and excavation, which disturb one (1) acre or more of land. The effective CGPs for the past 5 years were the February 28, 2007 renewal, with a minor modification on August 17, 2009 (“2009 CGP”) and the current March 1, 2012 renewal (“2012 CGP”).

On (date), representatives of the EPA conducted a Reconnaissance Inspection (“RI” or “Inspection”) of the (site name) and identified violations of the CGP, as detailed in the attached RI report.

A. Pursuant to Section 308 of the Clean Water Act, (company name) shall submit, for the (site name), to EPA Region (#) the following:

1. within **thirty (30) calendar days** of the date of receipt of this Request for Information, submit in writing, the actions (including schedules) that the facility has taken to address the Potential Noncompliance Items in the RI report.
2. within **forty-five (45) calendar days** of the date of receipt of this Request for Information:
 - a. the Storm Water Pollution Prevention Plan(s) (“SPPP”) that were in place for the period January 2011 to Present as required by Part E.1 and Attachment B of the CGP (which includes both the Erosion and Sediment Control component and the Construction Site Waste Control component);
 - b. weekly routine inspection reports required by Part I.E.3 of the CGP for the period January 2011 to the present;
 - c. for the period January 2011 to the Present, as applicable, submit, all Annual Reports required by

Part I.E.4 of the 2009 CGP through February 28, 2012 and Reports of Noncompliance required by Part I.E.4 of the 2012 CGP and I.E.5 of the 2009 CGP;

- d. for the period January 2011 to present, if (company name) does not have any of the information required above, then identify the dates of the unavailable reports and identify why such reports were not completed;
 - e. the date when excavation and construction activity began at the (site name);
 - f. the date when excavation and construction activity will be, or is expected to be, completed at the (site name); and
 - g. a report containing the costs associated with storm water management controls including labor, operations and maintenance, installation, etc. which were required to achieve compliance for the period June 11, 2015 to present. These costs should include:
 - i. updating the SPPP as site conditions require;
 - ii. fully implementing the SPPP; and
 - iii. installation of stormwater best management practices
- B. Within **ninety (90) calendar days** of the date of receipt of this Request for Information submit a complete listing and required information for all sites one (1) acre or greater, owned or operated by (company name), parent companies and/or subsidiaries, or any other entity under the general management of (company name) that are either under construction, have not undergone final stabilization, or that are under contract for construction. The response list and information must include:
- a. the site name, street/location, city, and zip code (including Latitude and Longitude information);
 - b. the area of the site (in acres);
 - c. the number of disturbed acres (or acres that will be disturbed);
 - d. a copy of the approved Request for Authorization;
 - e. a copy of the Letter of Acknowledgement or Authorization to Discharge, if applicable;
 - f. the name(s), address, telephone number and contact person name for each of the operators or owners of the construction site including a list of subcontractors at each site who are responsible for clearing grading and/or excavating;
 - g. the date that the construction began or is scheduled to begin and the date that construction is expected to be completed;
 - h. the name of the receiving body or bodies of water for the storm water discharges;
 - i. the Storm Water Pollution Prevention Plan(s) ("SPPP") that were in place for the period January 2012 to the present as required by Part E.1 and Attachment B of the CGP, which includes both the Erosion and Sediment Control component and the Construction Site Waste Control component;
 - j. weekly routine inspection reports required by Part I.E.3 of the CGP for the period January 2012 to the present; and

- k. for the period January 2012 to the present, the Reports of Noncompliance required by Part I.E.4 of the 2012 CGP and I.E.5 of the 2009 CGP.

CERTIFICATION

Any documents to be submitted by (company name) shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR Part 122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

All information required to be submitted pursuant to this Request for Information shall be sent by certified mail or its equivalent to the following addresses:

**Chief, Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region (#)
(address)**

**(name), Administrator
Water and Land Use Enforcement
(state department)
(address)**

For further information on EPA's Storm Water Program such as Best Management Practices and Storm Water Controls see EPA's web site at: <http://cicacenter.org/bmps.html>
(appropriate state website)

If you have any questions regarding this Request for Information, please contact (appropriate designated official).

Sincerely,

Chief
Water Compliance Branch

Enclosures

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: (#)

(Name)

**Assistant Commissioner
Bureau of Water and Sewer Operations
New York City Department of Environmental Protection
96-05 Horace Harding Expressway, 2nd Floor
Corona, New York 11368**

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act
(33 U.S.C. Part 1318)
Docket No. (#)
SDPES Permit Nos. (#)**

Dear (name):

This letter concerns discharges of pollutants into waters of the United States from facilities associated with the New York City Department of Environmental Protection (“NYCDEP”).

Section 301 of the Federal Clean Water Act (“CWA”), 33 U.S.C. Part 1251, *et seq.*, prohibits the discharge of pollutants into waters of the United States except as authorized by a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. Part 1342. Each discharge of pollutants from a point source that is not authorized by such a permit constitutes a violation of Section 301(a) of the CWA, 33 U.S.C. Part 1311(a).

This letter and the enclosures are a request for information issued pursuant to Section 308(a) of the CWA, 33 U.S.C. 1318(a). Section 308 of the CWA authorizes the Administrator of Environmental Protection Agency (“EPA”) to require those subject to the CWA to furnish information, conduct monitoring, provide entry to the Administrator or authorized representatives and make reports as may be necessary to carry out the objectives of the CWA. The enclosures, which are hereby made part of this letter, details the information NYCDEP must provide to EPA relating to its wastewater collection system and its treatment plants.

Section 308(a) of the CWA, 33 U.S.C. Part 1318(a) authorizes EPA to require any person to provide information required to carry out the objectives of the CWA including to determine whether there has been a violation of the CWA. Accordingly, you are requested to respond to the enclosed Information Request (Enclosure 1). Please read the instructions and definitions in the enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. To the extent that NYCDEP has any of the requested data currently on file, that data may be submitted in the requested format as part of your response. Your response to this request must be accompanied by a certificate that is signed and dated by you or the person who is authorized by you to respond to the request. The certification must state that the response is complete and contains all information and documentation available to you pursuant to the request. A Statement of Certification is enclosed with this letter (Enclosure 2).

Please submit your written responses in accordance with the deadlines set forth in the request to:

**(Name), Chief
Municipal Enforcement Branch
Office of Civil Enforcement
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (Room 3111B)
Washington, DC 20460
Email:
Telephone:
Fax:**

**(Name), Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
290 Broadway, 20th Floor
New York, NY 10007
Email:
Telephone:
Fax:**

Although the information requested must be submitted to EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 CFR Part 2, Subpart B. If EPA determines the information you have designated meets the criteria in 40 CFR Part 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, EPA may make the information available to the public without further notice to you.

Compliance with the provisions of this letter is mandatory. If you do not respond fully and truthfully to this Information Request or adequately justify your failure to do so, you may be subject to civil penalties or criminal fines under Section 309 of the CWA, 33 U.S.C. Part 1319, under which injunctive relief and penalties may be sought. Such an enforcement action may include the assessment of penalties of up to \$37,500 per violation, for each day of continued non-compliance.

We appreciate your cooperation and prompt attention to this matter. If you or your staff would like an opportunity to confer, have any questions, or would like to schedule a meeting relating to this information request, please contact (appropriate designated official). Thank you for your cooperation in this matter.

Sincerely,

Chief
Water Compliance Branch
USEPA Region 2

Enclosures

- (1) Information Request
- (2) Statement of Certification