



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DEC 10 1980

OFFICE OF ENFORCEMENT

MEMORANDUM

SUBJECT: Application Forms 1 and 2C

TO: Regional Enforcement Division Directors

THRU: Frank E. Hall, Director *FE Hall*
Permits Division (EN-336)

FROM: J. William Jordan, Chief *J William Jordan*
Industrial Permits Branch (EN-336)

During the recent National Permits Division and Water Enforcement Division meetings in Kansas City and Virginia Beach respectively, many questions and concerns were raised on the NPDES application form (primarily Form 2c of the Consolidated Application). In an effort to address these concerns, I would like to solicit in writing, any questions, comments or concerns about the NPDES application form (Form 2c) and the general form (Form 1). I have two reasons for the request. First, my staff has summarized the questions and responses on Form 2c raised to date at the Headquarters level. This summary should be expanded to include questions raised in your regions. A uniform set of responses will be useful in maintaining consistency among the various permitting offices involved. The attached list of questions and responses will serve as "Application Report #1" and additional reports will be developed as questions are received. These reports will be added to the forthcoming Permits Policy Book.

Our second reason for seeking comments on the application is the requirement to prepare an evaluation of the forms for the Office of Management and Budget (OMB). As you may be aware, OMB has given EPA only temporary clearance (until May 1981) for Forms 1 and 2C. In order to get full clearance, OMB requested that EPA conduct an evaluation of the forms. Part of this evaluation requires information on the impact of the forms on the public. In providing your comments and/or concerns on the forms, please focus on the following:

- o Confusing information requirements;
- o Overlaps in the requirements and places where other mechanisms are used to collect the same information;

- o Time required to complete the form (not including the time to generate the sampling and analysis data);
- o Need for minor modifications (like the format) to improve the clarity;
- o Significant issues related to information requirements which should be addressed in OWE policy statements.

We have also received requests for additional copies of Form 2c. In September, 10,000 additional copies were printed. Most of these have already been distributed to the regions. Another 20,000 copies will be ordered shortly. These will be available for distribution during January 1981. Half of this new order will be distributed to the regions. The remaining additional copies will then be available at Research Triangle Park and may be obtained by a written request to Library Services (MD-35) U.S. EPA, Research Triangle Park, North Carolina, 27711.

As the deadline for OMB clearance gets closer, we will be contacting you for further information. Please provide your questions on the forms and your evaluation of the forms by December 31, 1980. We appreciate your assistance in this matter.

If you have any questions, please call me or Gail Goldberg (426-7035) of my staff.

Attachment

cc: Regional Permits Branch Chiefs

PURPOSE: The purpose of this and subsequent reports is to provide uniform responses to questions on Forms 1 and 2c to maintain consistency among permitting offices.

1. Q: How is an applicant assigned a DUNS number or other identification number?

A: Where major facilities are not already aware of their DUNS number, applicants may call the Region. The Permit Compliance System (PCS) is being supplemented with DUNS numbers. This task may be complete by the end of 1980. For a new source, call Annette Brooks, Management Information and Data Systems Division, (FTS 755-0499).

2. Q: What are the requirements for stormwater runoff?

A: At this time, stormwater discharges must be tested if they are point sources. Then, if no contamination is known to exist, only pollutants listed in Item V-A must be tested (e.g. BOD, TSS, pH, Temp., etc.). If the presence of pollutants listed in V B, C & D are known to exist, then additional testing is required. If storm water is combined with process wastewater, then it should be considered a process waste stream and tested as described for that particular process waste stream.

The subject of testing requirements for stormwater runoff is being re-evaluated. For more information, call Gail Goldberg (426-7035).

3. Q: How old can data be for use in completing Form 2c?

A: In general, data should be less than one year old. However, this subject is not addressed in the May 19, 1980 Federal Register publication. Therefore, an applicant may use any appropriate data on hand, as long as the water sample was representative of the present discharge, and there have been no process changes or changes in the wastewater treatment systems.

4. Q: When can data generated by EPA be used to substitute for some testing requirements?

A: Applicants whose outfalls were analyzed by EPA may submit quantitative data generated by EPA rather than retest their discharges, if the data is less than three years old and remains representative of the present discharge. Data on both organic toxic pollutants and metals may be used if EPA generated the data.

An applicant may use data generated by EPA during the verification phase of guidelines development. If that data fulfills only part of the NPDES testing requirements, then an applicant must obtain analyses for the remainder.

5. Q: EGD elected to focus, during the verification phase of its BAT data gathering projects, on a smaller list of organic toxic pollutants for most of the Primary industries. Why does the application require testing and analysis for all or most of the 114 organic toxics in these industries?

A: A comprehensive explanation of the rationale used to determine testing requirements is given at 45 FR 33529. The logic for determining testing requirements is not the same in EGD as in Enforcement since the two offices have different missions. EGD must develop national standards while Permits must account for localized problems on a facility-by-facility basis. Moreover, each guideline may have used various and differing rationales for the determination of significant pollutants during their verification phase study. The various EGD rationales could not be used for the permit application form since we had to develop the application with uniform testing requirements based on uniform criteria for all industries.

6. Q: Does the phase-in for submission of the new application form (see 40 CFR 122.53, 45 FR 33442) exempt some applicants in the Primary industries from toxic testing?

A: No. §122.64 requires States and Regions to have toxics data before issuing long-term BAT permits. This data can be requested under 308 Authority where an old application form (Standard Form C - EPA Form 7550-23) was submitted by April 30, 1980.

7. Q: If an applicant has already generated analytical data using a 72-hour composite sample, will this information be acceptable?

A: Yes, in many cases a 72-hour composite sample may yield more representative results than a 24-hour sample.

8. Q: What if production is running significantly below normal and it is not possible to collect a representative sample?

A: Several points are worth noting here. First, sampling is considered representative "to the extent feasible." Second, delays of up to six months or June 1981 are available for submitting testing data (see 122.53(c)(2)). Third, item VI-B and C ask if the levels of data reported will vary. Then you can explain why and what levels should be expected.

9. Q: How do requirements for a flow-proportional composite sample apply to samples collected for volatile organic analysis (VOA)? How do you flow-proportion grab samples?

A: Applicants must collect at least 8 grab samples for VOA at periodic intervals during the operating hours of a facility over a 24-hour period. These are composited in the laboratory, using a syringe, just before injection into the GC. Only one analysis is required. If the flow was constant, then equal volumes may be combined. Otherwise weighting factors must be calculated as the ratio of the flow at the time of each grab sample to the sum of all of the flows. This weighting factor is used to determine the proportional volume of each sample to be combined for one analysis.

10. Q: Can an applicant collect 40 ml aliquots for the 8 VOA grab samples?

A: While the instructions to Form 2c require 100 ml aliquots to be used, the amount of sample needed in the analysis of volatiles (less than 5 ml) is very small. The Agency already uses 40 ml bottles to collect VOA's in programs such as EGD. Flexibility by the permit writer may be used in responding to this question.

11. Q: In the Federal Register, 45 FR 33562, when an applicant collects grab samples (other than VOA), they must collect 4 grabs over a 24-hour period. Are four analyses for each parameter required?

A: parameter requiring grab samples # of analyses

pH	4
temp	4
fecal coliform	4
residual chlorine	4
oil and grease	4

cyanide	may do one analysis
phenols	(composite) if preserved properly.

pH, temp. and residual chlorine should be analyzed as soon as possible. Fecal coliform has a proposed 6 hr. max. holding time (304(h) proposed December 3, 1979 44 FR 69464). Any compositing should be flow weighted.

12. Q: What are the maximum holding times allowed for each type of sample?

A: In the past, maximum holding times were recommended by EPA but not required. On December 3, 1979 (amended December 18, 1979) the Agency revised and updated previously recommended holding times to make their use mandatory. However, these were only proposed and are subject to public comment before final publication. Therefore, a facility can make a judgment on appropriate holding times, until the Agency publishes final rules on this subject.

13. Q: In Item V-C, the pollutant, 1, 2-dichloropropylene has a Chemical Abstracts Service (CAS) number for 1, 3-dichloropropene. Which should be tested?

A: The CAS number is correct. Where appropriate, an applicant must test and report results for 1, 3-dichloropropene.

In the same section V-C, lead has the wrong CAS number. For lead, the correct CAS number is 7439-92-1.

14. Q: What GC/MS fractions should be analyzed by the Explosive Manufacturing Industry?

A: See the Federal Register at 45 FR 33454 and 45 FR 33563. The table in the Federal Register is correct. The explosive Manufacturing Industry must do the acid and base/neutral fractions. However, there is a typographical error in table 2c-2 on the printed form. There should not be an x in the volatile column for this industry.

15. Q: Are coal mines, especially surface mines, required to test for toxic pollutants?

A: At this time, these effluents must be tested for metals and all four GC/MS fractions if the mines produces over 100,000 tons per year.

As with all 34 industries, if new data is submitted or OWE receives data not previously available, consideration will be given to revising the GC/MS fractions reporting requirements.

OWE is currently re-evaluating certain testing requirements for coal mines. For more information call Gail Goldberg (426-7035).

5. Q: What are the application requirements for a new source?

A: Until the new source NPDES application (Form 2d) is completed (expected June 1981), new source permittees should use the old NPDES application forms - Standard Form C (EPA Form 7550-23) and the Short Forms C and D (EPA Forms 7550-8 and to 7550-9).

17. Q: What if an application is not submitted on time to an EPA regional office?

A: Where the permittee does not file a timely application under §122.53, the application will not be considered complete under §122.4(c) and the expiring permit would not remain in force, exposing the permittee to a potential lawsuit for discharging without a permit.

18. Q: What if a timely application is filed, but the Regional Administrator or State Director fails to issue a new permit on or before the expiration date of the previous permit?

A: For EPA issued permits the expired permit continues in force under the Administrative Procedures Act (APA) 5 U.S.C. §558(c) until the new permit date. Where a State issues the permit, the State is not bound by this APA rule, but may allow similar procedures on expired permits. See 40 CFR 122.5(d)

19. Q: Do the compliance schedules under §122.53(c) apply to State NPDES programs?

A: No. State NPDES programs may devise their own deadlines for submitting new applications, or use this schedule, provided they do not conflict with the statutory deadlines and requirements of the Clean Water Act. State programs should refer to 123.13(g) on this subject.