

ATTACHMENTS AVAILABLE UPON REQUEST

(Office of Water letterhead)

August 8, 1988

MEMORANDUM

SUBJECT: Implementation of Organic Chemicals, Plastics and Synthetic Fibers Pretreatment Standards

FROM: James R. Elder, Director
Office of Water Enforcement and Permits

TO: Regional Water Management Division Directors

The purpose of this memorandum is to provide additional guidance on the implementation of the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) Pretreatment Standards. This memorandum addresses the following: mailing to Industrial Users; compliance issues; guidance for determining OCPSF applicability; removal credits; and information for ordering copies of the OCPSF Development Document.

MAILING TO INDUSTRIAL USERS

The Office of Water Enforcement and Permits (OWEP) completed the mailing to OCPSF Industrial Users notifying these facilities of the current Pretreatment Standards in 40 CFR 414 (November 5, 1987). To date, of the 395 information packets mailed via return receipt, approximately 316 or 80% of the Industrial Users have confirmed notification. Where we have received new information regarding facility ownership, name changes or facility additions and deletions, the changes have been noted on your revised OCPSF industrial Users List (Attachment A). In addition, the return receipts for your Region have been enclosed, and should be kept by enforcement personnel for use in potential enforcement cases (Attachment E).

COMPLIANCE ISSUES

As a first measure of compliance for Pretreatment Standards for Existing Sources (PSES) Control Authorities should have received Baseline Monitoring Reports by June 20, 1988. Based on the Pretreatment Compliance monitoring and Enforcement Guidance, failure to submit reports within 30 days of that date would designate the Industrial User as in significant noncompliance and would warrant an enforcement action by the Control Authority.

There are also immediate compliance questions concerning new sources of OCPSF Industrial Users. While the Standards for New

and Existing Sources are the same, New Sources must achieve compliance upon commencement of discharge. A New Source is defined as any OCPSF industrial User which begins construction after the date of proposal of the regulation. Therefore, Pretreatment Standards for New Sources (PSNS) apply to OCPSF Industrial Users which commenced operation after the March 21, 1983, proposal. If new sources are identified and are in noncompliance, a compliance schedule should be issued in an Administrative Order (AO). The schedule in the AO should result in compliance as soon as possible, but in no case should compliance occur later than three years from the November 5, 1987 promulgation date.

Attachment B provides general information on the OCPSF regulations which may be helpful in implementing these standards.

APPLICABILITY OF THE OCPSF PSES AND PSNS PRETREATMENT STANDARDS

Any request for a Category Determination should be directed to the Region or State. However, OWEF and the Office of Water Regulations and Standards (OWRS) have received about a dozen inquiries on the applicability of the OCPSF regulations to specific facilities. Both offices reviewed the Category Determination requests and contacted the Regional Pretreatment Coordinator to discuss the office's intended response. Comments and guidance were then provided to the Industrial User. A copy of the industrial User's inquiry and the Office's comments were then forwarded to the appropriate Regional Water Management Division Director for additional comment.

Based on the inquiries that have been received, the following are responses from OWRS to some of the more frequently raised questions:

- (1) Do the OCPSF Pretreatment Requirements apply to discharges from compounding and formulation processes?

The OCPSF limitations and standards do not apply to wastewater discharges from compounding and formulation processes. However, if such wastes mix with regulated OCPSF wastewater prior to treatment, the combined wastestream formula (CWF) would allocate allowances for any unregulated wastestreams (an example on the use of the CWF for OCPSF has been provided as a part of Attachment C). In circumstances where there are no regulated wastestreams present, pollutants may be present in the discharge from formulation processes in amounts that warrant control under local limits.

- (2) Are completed metal-bearing wastestreams exempt from the standards for metals only, or is the wastestream also exempt

from the organic and cyanide standards?

The exemption for complexed metals in 40 CFR 414.11 (f) refers to the exclusion of the standards for metals only. The exclusion applies only for the metals listed in Appendix B as complexed for the product/process in question. In addition, the wastestream is not exempt with regard to toxic organics and cyanide requirements.

- (3) Are auxiliary establishments primarily engaged in performing support services such as research and development activities exempt from the OCPSF requirements?

OCPSF facilities which engage in support service activities such as research and development, pilot plant, technical services, and laboratory bench scale operations are subject to the OCPSF requirements if such operations are conducted in conjunction with and related to existing OCPSF manufacturing activities at the plant site [40 CFR 414.11 (b)]. However, if the auxiliary establishment is located at a physically separate site from the OCPSF manufacturing facility, then the OCPSF requirements would not be applicable as long as the product manufactured at this auxiliary site is not sold. That is, the sale of the product would make the auxiliary site's operation a commercial manufacturing facility subject to the OCPSF regulations.

- (4) At a facility where the primary production activity is not regulated by the OCPSF pretreatment requirements, would a wastestream resulting from the production of small quantities of intermittently produced specialty chemicals subject the facility to the OCPSF pretreatment requirements?

The OCPSF Pretreatment Regulations provide no exemption for intermittently produced, small-quantity production. In the event that a facility's primary production activity is not regulated by the OCPSF requirements but an auxiliary product, such as a specialty chemical, is manufactured which does fall under the OCPSF requirements, and both wastestreams are mixed prior to treatment, then the combined wastestream formula applies. However, for facilities that combine regulated and nonregulated wastestreams after treatment but prior to the monitoring point (usually at the sewer connection to the public sanitary sewer), a flow weighted average (FWA) or more stringent approach must be used to adjust Categorical Pretreatment Standards. In the preamble to the June 12, 1986 proposed rules (51 PR 21462), EPA clarified when CWF and FWA must be used.

REMOVAL CREDITS

Although the question of removal credits is addressed in Pretreatment Bulletin #3 and in other forums, OCPSF facilities may still request information on the availability of removal credits. Such inquiries may be responded to as follows:

Due to the decision of the U.S. Court of Appeals in NRDC vs. EPA, 790 F. 2d 289 (3rd Cir. 1986), cert. den. sub nom, CMA v. EPA, 107 S. Ct. 1285 (1987), and Section 406(e) of the Water Quality Act of 1987, no removal credits can be granted and previously issued removal credits are of no effect until EPA promulgates the technical sludge regulations required by Section 405 (d) of the federal Clean Water Act. Three other deficiencies in the removal credits regulations identified by the Court have already been addressed by EPA in a Federal Register notice issued on November 15, 1987 (52 FR.42434). Removal credits cannot be issued for a given pollutant until EPA issues technical regulations governing the disposal of sludges containing that pollutant.

Further details on the history of removal credits can be found in Attachment D.

OCPSF DEVELOPMENT DOCUMENT

The Industrial Technology Division has published for public distribution the Organic Chemicals, Plastics and Synthetic Fibers Development Document which may be helpful in implementing the OCPSF regulations. The EPA number assigned IS: 440/1-87/009. The corresponding NTIS number is: PB 88-171335. The cost is set at \$86.95 per hard copy and a microfiche copy is also available.

Publications can be purchased by submitting requests to the following location:

National Technical Information Services (NTIS)
5285 Port Royal Road
Springfield, VA 22161

(Please note that the NTIS number is required when ordering).

If you have any questions call me or have your staff contact Karen Gray of the Enforcement Division at FTS 382-4373.

Attachments

1