



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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MEMORANDUM

TO: Regional Administrators w/o attachments
Regional Water Division Directors
Regional Enforcement Division Directors

FROM: Deputy Assistant Administrator for Water Programs Operations
(WH-546)

Deputy Assistant Administrator for Water Enforcement (EN-335)

SUBJECT: Coordination Between Regional Enforcement and Water Programs
Personnel in Implementing the National Pretreatment Program

The general pretreatment regulation (40 CFR Part 403) promulgated on June 26, 1978, requires that certain publicly owned treatment works (POTWs) develop pretreatment programs to control the introduction of industrial wastes into POTWs. The successful implementation of these pretreatment programs requires a careful integration of Regional Enforcement Division efforts in overseeing the creation of such programs and Construction Grants efforts in providing funding for the development of these programs. The purpose of this memorandum is to outline the respective roles of these two groups with regard to the initial stages of POTW pretreatment program development. The recommendations in this memorandum reflect the proposals for coordinating Enforcement and Construction Grants activities found in the Interim National Municipal Policy and Strategy, October, 1978, and the latter document should be read in concert with this memorandum.

Identification of POTWs Required to Develop a Program

The pretreatment regulation specifies that two groups of POTWs should be required to develop a pretreatment program (see section 403.8). First, all POTWs with an average design flow greater than 5 million gallons per day (mgd) and receiving industrial wastes which 1) pass through the POTW untreated, 2) interfere with the operation of the POTW or, 3) are otherwise subject to pretreatment standards developed under section 307 of the Clean Water Act are required to develop a program. In addition, the Regional Administrator or Director of the State NPDES program may require that POTWs with an average design flow of 5 mgd or less develop a pretreatment program if their industrial influent meets any of the three criteria listed above.

A computer print-out of all POTWs in each Region broken down by majors and minors is attached to this memorandum. The Regional Enforcement Division should take the lead in developing from the attached computer print-out: 1) a list of those POTWs (both above and below 5 mgd) in non-NPDES States which should develop a pretreatment program and, 2) a list of those POTWs above 5 mgd in NPDES States which must be required to develop a program. The Regional Water Division must assist in this effort and provide such necessary information as is available in the Water Division files. Attachment A suggests means by which the Regional office can identify these POTWs.

In compiling the non-NPDES State list, the Regional office should check the appropriate boxes next to the POTW name on the computer print-out. Copies of this print-out should then be forwarded to the Permits and Municipal Construction Divisions at Headquarters. A copy of this print-out should also be maintained by both the Enforcement and Water Divisions in the Regional office and both Divisions should be consulted on any changes to the list.

The NPDES State list should be sent to NPDES States to assist them in identifying appropriate POTWs. NPDES States will be responsible for adding to the Regional list those POTWs with flows of 5 mgd and less which will be subject to the program development requirement. Once the NPDES State has developed a list of all POTWs within its jurisdiction which will be required to implement pretreatment programs, it should forward this list to the Grants and Enforcement personnel in the Regional office who will, in turn, send this information on to Headquarters.

Lists of those POTWs in both NPDES and non-NPDES States which will be required to develop a program should be sent to the Headquarters Permits and Municipal Construction Divisions no later than January 15, 1979. The cover memorandum transmitting the completed lists should be signed jointly by the Directors of the Regional Water and Enforcement Divisions. These lists will eventually be incorporated into the Permit Compliance System (PCS) which will provide a convenient mechanism for tracking and updating progress in developing POTW pretreatment programs.

Application for Construction Grants Amendment

Once the lists of POTWs required to develop a pretreatment program have been compiled, the Construction Grants staff should notify the appropriate POTWs in NPDES and non-NPDES States of the need to apply for an amendment to their existing Step 1, 2 or 3 grant in order to acquire funding for the development of a pretreatment program (see Construction Grants regulation 40 CFR 35.907). Concurrent notice of POTWs which should apply for grant amendments should be sent to Grant personnel in NPDES and non-NPDES States so that the States may plan future funding requirements. Existing construction grants should be amended no later than June 30, 1979, to provide pretreatment program funding.

As individual POTWs apply for and are awarded an amendment to their construction grant for pretreatment program implementation, this information should be conveyed to Regional Enforcement personnel. As will be seen in the subsequent discussion, timing of the construction grants award can have an impact on the development of the pretreatment compliance schedule incorporated into the POTW's NPDES permit.

Reissuance of Permits to Include Pretreatment Requirements

The pretreatment regulation requires that NPDES permits for POTWs which are required to develop a POTW pretreatment program incorporate a compliance schedule for the development of such a program [see 40 CFR 403.8(d)]. This compliance schedule should be incorporated into the POTW's permit upon reissuance at the end of the existing permit term or at the time the permit is modified or reissued to grant a section 301(i)(1) time extension or a section 301(h) modification of secondary treatment requirements. In addition, a POTW's NPDES permit may be modified in mid-term to incorporate a schedule for the development of a POTW pretreatment program where the operation of a POTW without a pretreatment program poses significant public health, environmental or related concerns, or where a pretreatment program compliance schedule must be developed to coordinate with construction grant awards. A detailed explanation of the development and application of pretreatment compliance schedules will be found in Attachment B along with a model compliance schedule.

The pretreatment strategy envisions the type of close coordination between Enforcement and Construction Grants staffs outlined in the Interim National Municipal Policy and Strategy for developing these compliance schedules. Both the Construction Grants regulation (40 CFR 35.907, 35.920-3) and the pretreatment regulation (40 CFR 403.8) impose time limitations on the various activities to be undertaken in the pretreatment compliance schedule. The pretreatment compliance schedule incorporated into a POTW's NPDES permit should contain milestones derived from the grants process. As the discussion in Attachment B indicates, in order to develop a compliance schedule which meets both the pretreatment and Construction Grants regulatory requirements, the Enforcement staff must coordinate with Construction Grants staff in determining the current grant status of the permittee and the schedule for receipt of future grant funding.

Enforcement of POTW Pretreatment Programs

The preceding discussion of coordination between Construction Grants and Enforcement in developing POTW pretreatment programs should not be understood to imply that availability of funding is a prerequisite to the development of a pretreatment program. The requirement to develop a pretreatment program should be enforced and not dependent on

Federal funds. The development of pretreatment programs is critical; it is the main tool to address toxic discharges from POTW's. The costs of developing such programs are not capital costs and they can be recovered from users of the municipal system in most cases. In balancing these considerations, the Agency's policy is to enforce requirements for municipalities to develop pretreatment programs without dependence on Federal funding.

This policy applies equally to funding the operation of municipal pretreatment programs once they are developed and running. They are expected to be self-supporting. A user charge system may be used for this purpose.

If you have any questions on the implementation of this coordination effort or its relation to the Interim National Municipal Policy and Strategy, please feel free to contact Nancy Hutzell or Shanna Halpern (8-755-0750) in the Permits Division or Ron DeCesare (8-426-8945) in the Municipal Construction Division.


John T. Rhett


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Attachments

cc: Regional S&A Division Directors
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