



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

JAN 28 1983

OFFICE OF ENFORCEMENT

MEMORANDUM

n-80-3

TO: Regional Enforcement Division Directors
Regional Permits Branch Chiefs

FROM: Acting Deputy Assistant Administrator
for Water Enforcement (EN-335)

SUBJECT: Incorporation of Pretreatment Program Development
Compliance Schedules Into POTW NPDES Permits

The General Pretreatment Regulation (40 CFR Part 403) requires that certain publicly owned treatment works (POTWs) develop programs to ensure compliance with pretreatment discharge standards by nondomestic sources discharging into the POTW. A necessary first step in developing these programs is the insertion of a compliance schedule for program development in the POTW's NPDES permit. The purpose of this memorandum is to re-emphasize the importance of incorporating pretreatment compliance schedules into all appropriate permits at the earliest possible time.

BACKGROUND

It is the intention of the Clean Water Act and the National Pretreatment Strategy that the primary responsibility for enforcing pretreatment standards be delegated to local POTWs. This is to be accomplished by EPA and NPDES States overseeing the development of POTW pretreatment programs meeting the requirements of the General Pretreatment Regulation. Section 403.8(d) of that regulation requires that,

If the POTW* does not have an approved Pretreatment Program at the time the POTWs' existing Permit is reissued or modified, the reissued or modified Permit will contain the shortest reasonable compliance schedule, not to exceed three years or July 1, 1983, whichever is sooner, for the development of the legal authority, procedures and funding required by paragraph (f) of this section. Where the POTW is located in an NPDES State currently without authority to require a POTW Pretreatment Program, the Permit shall incorporate a modification or termination clause as provided for in section 403.10(d) and the compliance schedule shall be incorporated when the Permit is modified or reissued pursuant to such clause.

* As defined by section 403.8(a)

The insertion of these compliance schedules is a critical element in launching the development of many POTW pretreatment programs. Compliance schedules also serve as a means for EPA and NPDES States to track program development.

Those POTWs required to develop a pretreatment program have been identified by States and Regional offices. Preliminary information on these POTWs was forwarded to Headquarters at the start of 1979. Since that time, the Regions and States should have developed a firmer list of exactly which POTWs will need pretreatment programs. For those POTWs so identified, the task of incorporating compliance schedules should be well underway.

CURRENT STATUS AND NECESSARY ACTIONS

Despite the importance of compliance schedules to program development and the need for their swift incorporation if regulatory deadlines are to be met, there have been indications that schedules have not been inserted in all appropriate permits. While some Regions and States have moved forward strongly in this area, others have not. If the pretreatment program is to be successful and the momentum for local program development that has been generated is to be maintained, it is essential that this activity is given appropriate priority.

In order to meet both the July 1, 1983 program approval deadline and allow POTWs adequate time for program development, compliance schedules should be established as soon as possible. By inserting schedules in permits as they expire or are modified, the disruption and waste of resources created by reopening permits solely to incorporate pretreatment compliance schedules will be avoided. Although it is desirable to avoid opening permits just to insert pretreatment schedules, this step may become necessary as the 1983 deadline approaches. As first round permits expire in FY 80, the insertion of compliance schedules will be a priority activity in this fiscal year. Less than complete attention to this activity will create a backlog with potentially disastrous program consequences.

I understand that the timely insertion of compliance schedules has been made more difficult by the delay in approval of State pretreatment programs. However, in many cases, this delay need not affect the development of POTW compliance schedules. The General Pretreatment Regulation and the National Pretreatment Strategy make it clear that those States which currently have the authority to reissue, modify or reopen POTW permits to incorporate pretreatment requirements should exercise that authority and put compliance schedules into expiring permits or those being modified for some other reason. This should be the case with the majority of NPDES States. Those few States which at this time lack the necessary authority to incorporate compliance schedules

should continue to put modification clauses in permits. These modification clauses should require that such permits be promptly reissued or modified after State pretreatment program approval to incorporate an approved POTW program or a compliance schedule for the development of a pretreatment program. To alleviate future delays, all States should move quickly to receive State program approval.

The incorporation of compliance schedules into permits should not be a major resource burden on either Regional offices or States. Individual schedules should not vary a great deal from the model provided in guidance material. A model compliance schedule accompanied by a detailed explanation of how to develop such a schedule was included in the November 29, 1978 memorandum from the Deputy Assistant Administrator for Water Enforcement and the Deputy Assistant Administrator for Water Programs Operations which is attached for your assistance. This information was expanded upon in the Pretreatment Guidance Document for NPDES States that was distributed in February, 1979. Additional copies of this Document are available from Headquarters Permits Division. If these models are followed, it should require a minimal amount of resources to carry out this critical function. The investment of resources in this effort now will yield a long term resource saving for EPA and States. Pretreatment programs developed as a result of these compliance schedules will shift most program responsibilities to POTWs.

CONCLUSION

To allow us to evaluate the progress of this program, and to help us plan where we can best utilize our contract dollars, we ask that you provide us with the following information on compliance schedule activities:

- o Your current count of the number of POTWs or POTW Authorities which are required to develop pretreatment programs.
- o Of those POTWs or POTW Authorities required to develop programs, how many have pretreatment compliance schedules? How many have modification clauses?
- o How many POTWs or POTW Authorities, required to develop pretreatment programs, do not yet have either a compliance schedule or a modification clause?
- o How do you plan to deal with those POTWs or POTW Authorities with neither a compliance schedule nor a modification clause, in a manner that will allow them sufficient time to develop a program prior to the July 1, 1983 deadline?

For purposes of answering the first three questions, we have attached a form that can be filled in for each State in your Region. Because of the need to finalize our contract planning process, we need this information as soon as possible and would like to have it within four weeks of your receipt of this memorandum. Please send the completed forms to Michael Kerner, Permits Division, (EN-336), US EPA, 401 M Street SW, Washington, D.C. 20460. If you have any questions on this or any other aspect of the National Pretreatment Program you can call Michael Kerner at (202) 755-0750 (FTS).

By diligently pursuing this compliance schedule activity, we should be able to prevent any further program slippage and encourage the rapid and successful development of this important pollution control program.


Leonard A. Miller

Attachments