

**FEB 20 1986**

**MEMORANDUM**

**SUBJECT: National Minor Permit Issuance Strategy**

**FROM: Rebecca W. Hammer, Director  
Office of Water Enforcement  
and Permits**

**TO: Regional Water Management Division Directors**

Attached is the final Minor Permit Issuance Strategy. The strategy is the culmination of the efforts of a joint Regional, State and Headquarters workgroup which first met in June 1985 and which helped fashion the first draft dated August 1985. You were invited to comment on a later version of the strategy dated October 31, 1985. This final strategy reflects the combined comments of the Regions, numerous NPDES States and several Headquarters Offices.

The minor permits of highest priority for issuance are those where water quality problems are known or suspected due to the presence of toxic pollutants. You are reminded that within the existing Major Permit Classification System, you have the ability to re-evaluate a facility's major/minor classification rating at any time based on new information and submit the results of your re-evaluation semi-annually to this office. Should new data indicate a toxic effluent, the rating criterion "Water Quality Factors" should be reassessed based on a violation of the common State water quality standard of "no discharge of toxics in toxic amounts". Alternatively, you may consider classifying minor facilities as discretionary majors when, on the basis of toxicity data, they have been identified as significant sources of toxic pollutants.

One of the purposes of the Strategy is to identify and provide or develop tools for regulatory agencies to use to facilitate minor permits issuance. We now plan to distribute the existing tools by February 28, together with a schedule for the development of future tools.

Please begin to implement the strategy immediately by discussing its principles with the States and beginning to develop individual State strategies. CWA requires a minor permits issuance strategy to be developed for each State by July 1, 1986. These strategies are to be used to identify significant minor permits to be issued in FY87.

Any questions you may have about the strategy may be directed to Martha Prothro, Director of the Permits Division (FTS 475-9545) or Harry Thron of the Technical Support Branch (FTS 475-9538).

Attachment

cc: Directors, NPDES State Programs

EN-336:Hap:Lorretta:REV:B:1-29-86: #6  
REV:adg:2/18/86:REV:Lisa:2-19-86

FEB 20 1986

NATIONAL  
NPDES MINOR PERMIT ISSUANCE STRATEGY

USEPA  
Office of Water

Office of Water Enforcement and Permits  
Permits Division  
Technical Support Branch

January, 1986

## I. Purpose of the Minor Permit Issuance Strategy

### Background

The Clean Water Act provides that no pollutants may be discharged from point sources to the waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit. This includes all point sources, whether previously permitted under the NPDES permits program or not. The Act does not differentiate between major and minor point sources and, therefore, requires the Environmental Protection Agency and the NPDES States to issue and maintain current NPDES permits for all sources.

EPA developed a major/minor classification system for industrial and municipal NPDES permits to provide an initial framework for setting permit issuance priorities during the first and second rounds of NPDES permit issuance. Historically, major permits have been considered more significant sources and, therefore, have been accorded more regulatory attention than minor permits. Major permits almost always have the capability to impact receiving waters if not controlled. Minor permits may, or may not, adversely impact receiving waters if not controlled.

There are approximately 65,000 dischargers in the United States which have been issued NPDES permits. Currently, 7,500 of these, due to size or composition of wastewater or both, are termed "major" permits. The remainder are termed "minor" permits. According to the national Permit Compliance System (PCS) data base, the national minor permit backlog is about 23,500 (see Appendix A).

EPA's Office of Water announced its strategy for issuance of major permits on June 2, 1982. This strategy directed EPA Regions to focus permitting resources on the issuance of major permits. As a result, the backlog of expired major permits has been largely eliminated. However, this approach has also contributed to a large and continuing backlog of expired minor permits in both NPDES States and EPA Regions. The minor permit issuance strategy is aimed at reducing the minor permit backlog while EPA and States eliminate backlogs of major permits or reduce them to an absolute minimum.

### Purpose of Strategy

This strategy has three purposes:

1. To promote issuance and reissuance of minor NPDES permits by establishing manageable expiration schedules and thereby maintaining a manageable permitting workload.
2. To establish national priorities for minor permit issuance based first on environmental significance and second on regulatory efficiency.

3. To identify and plan for development and distribution of permit issuance tools to all regulatory agencies to enhance existing capabilities for issuing minor permits.

#### Framework for Strategy Development and Implementation

Two EPA tracking and accountability systems, the Strategic Planning and Management System (SPMS) and the Office of Water Accountability System (OWAS), address minor permit issuance.

The Administrator's agency-wide tracking system, SPMS, includes a requirement that Regions and NPDES States submit numerical commitments for the issuance of "significant" minor permits for FY 1986. The minor permit issuance strategies developed by the EPA Regions and NPDES States as required by OWAS should reflect these numerical commitments.

The tracking system for the Assistant Administrator for Water, OWAS, for FY 1986 includes requirements for two commitments and two corresponding tracking elements for them. First, like SPMS, it includes a numerical commitment requirement for issuance of "significant" minor permits. This commitment is identical to the SPMS numerical commitment except that OWAS requires the total commitment to be broken down into municipal and non-municipal components. Second, OWAS includes a requirement for the development of State-by-State minor permit issuance strategies, by July 1986, to provide for a thoughtful planning and prioritizing process for the issuance of minor permits.

For FY 1986, OWAS does not specifically require that States or Regions list the names of minor permittees they plan to address in FY 1986. However, the implementation of State strategies must culminate in identifying specific individual minor permits, which will be used for tracking performance against SPMS targets in FY 1987. Prior to the beginning of FY 1987, lists of specific permits must, therefore, be developed based on the priorities of the State minor permit issuance strategies. These lists should be maintained through PCS, but may be revised periodically by the permitting authority.

Both accountability systems require the issuance of NPDES permits to "significant" minors. The identification of significant minors will depend on the issuance strategy for each State, but significant minor dischargers should be distinguished by their clearly definable environmental impact when compared to other minor dischargers. Each State strategy should identify significant minor permits as those permits to be issued that fiscal year based on the priority ranking

factors listed in each strategy. Those permits of highest priority in that fiscal year for which an issuance commitment has been made will be significant minors.

The OWAS guidance document provides the following summary definition of a State minor permit issuance strategy:

"A strategy for minor permit issuance is to be prepared for each State by the permitting authority based on the national minor permit issuance strategy currently scheduled for release on October 31, 1985. The strategy should consist of two specific elements. First, it should list individual priority ranking factors (such as the presence of toxics, water quality considerations, and geographical distributions) which will be used to divide each State's universe of minor permits into priority groups. The strategies should distinguish industrial and municipal permits since there may be some differences in priority associated with these dischargers. Second, the strategy should contain details of implementation including methods used for issuance such as general permits, model permits, etc. and the resources assigned to this activity. These strategies are to be used in preparing a list of significant minor permits which will be required as a part of the FY 87 commitment process."

In addition, each strategy should embody the following principles:

- o Each minor permit issuance strategy should have as its ultimate goal the elimination of the backlog of all expired NPDES permits by the end of FY 1990.
- o Each permit issuance strategy should result in a permit issuance process that eliminates or reduces surges in permit expirations and concomitant fluctuations in permit issuance workload. Since most NPDES permits expire every five years, the regulatory authority should try to achieve a permit issuance process that results in the reissuance each year of about 20% of the total universe of permits issued.
- o Whenever possible, permit issuance priorities should be established to avoid or minimize the need for reopener provisions and reissued permits should contain final, enforceable effluent limits. To the extent practicable, permit issuance should be planned to coincide with the expected availability of all necessary information, including wasteload allocations, variance decisions, etc.
- o States and Regions should have programs in place for identifying and addressing unpermitted sources. Non-tiller discharges identified under these programs should be issued permits according to a specified priority. Stormwater discharges are candidates for such programs.

- o Each strategy should emphasize the use of all available tools for the efficient issuance of minor permits, especially the use of general permits. Where an NPDES State has not been authorized to issue general permits, the strategy should include a discussion of the steps needed for the State to obtain such authority. Although States are not required to adopt a general permit program, they are encouraged to do so where minor permit backlogs are otherwise unmanageable.

### Example Strategies

A "Basin-wide" issuance strategy is useful when water quality is of concern, since water quality problems are often caused by the combined effects of a number of dischargers. The basin-wide approach focuses attention on all discharges on a given waterbody. Each basin in a State is catalogued, the dischargers are identified, and all permits in the basin are issued. The State establishes priorities for each basin and schedules permit issuance according to those priorities assuring that all permits in the State are addressed in a five year period. 1/

An "Administrative" or "Workload Management" issuance strategy is another approach. The principle of this approach is to identify dischargers according to priority over the five year permit cycle, and to issue 20 percent of them each fiscal year.

## II. Establishing Priorities For Minor Permit Issuance

Limited resources and the sheer number of minor permits require that EPA Regions and NPDES States set sensible priorities to facilitate the issuance or reissuance of minor permits.

The following priority ranking factors are separated into industrial and municipal categories because priorities are somewhat different for these two types of dischargers. Further, existing policies for municipal permit issuance (including the National Municipal Policy) have already established priorities for certain municipal dischargers.

States and Regions have the flexibility to structure a strategy based on other priority ranking factors as well. However, each minor permits strategy should reflect the following factors.

---

1/ This approach involves major permits as well as minor permits. "Basin-wide" issuance strategies must be consistent with the June 2, 1982 strategy for issuance of major permits, and must ensure that backlogs of expired major permits are eliminated or kept to an absolute minimum. Short-term permits may be one approach to synchronizing the issuance of permits for a number of dischargers within a basin, while simultaneously preventing backlogs of expired major permits.

## Priorities for Minor Industrial Permits Issuance

### 1. Water Quality Impact

Discharges known or suspected to impact water quality should be considered the highest priority for permit issuance. The following elements should be used to determine whether the permittee is included in this category:

- i) the permittee discharges to a known water quality limited waterbody (or waterbodies if a basin-wide approach is used) where the designated use is not being achieved because of point source discharge;
- ii) the permittee discharges pollutants at levels which exceed existing water quality standards or EPA criteria;
- iii) the permittee discharges to a waterbody into which numerous other point sources also discharge and the combination of these loads exceeds the standards and/or exceeds 1% of the total flow;
- iv) the permittee is included in a wasteload allocation designed to achieve water quality standards; and/or
- v) the permittee's effluent has been tested and found to be acutely or chronically toxic; and/or
- vi) the permittee's effluent has been analyzed and found to contain significant levels of toxic pollutants not now regulated in the current permit.

Discharges of toxic pollutants which impact water quality should generally be accorded higher priority than discharges of conventional pollutants. Unpermitted sources and stormwater dischargers are generally expected to be the lowest priority within the water quality impact priority ranking factor.

### 2. "Special Priority" Waterbodies

Due to a high level of public interest or through designation as a high priority waterbody by Congress, EPA or a State, certain waterbodies have been elevated to a special priority. An example would be the Chesapeake Bay, considered by surrounding States and the EPA to be a high priority waterbody requiring increased regulatory attention. Dischargers to such water bodies, whether known to affect water quality or not, should normally be accorded priority in an issuance strategy. Since such waterbodies usually cross



State boundaries, local basin planning organizations or commissions, as well as public interest groups, should be included in the priority setting process.

### 3. Industrial Category

Certain industrial categories can be considered high priority candidates for permit issuance because of two characteristics: the typical composition of their wastewaters and their potential coverage by efficient permitting mechanisms such as effluent guidelines or general permits. The guiding principle in this priority factor is the need to combine maximum efficiency with type and amount (and thus impact) of pollutants controlled. The level of assigned priority will be based on consideration of both of these concerns.

Emphasis on toxics control in the upcoming rounds of NPDES permit issuance suggests that the primary industrial categories, with their high potential for toxics discharge, are higher priority than the secondary industrial categories. Industries are often concentrated in different regions of the country. Therefore different categories are of higher or lower significance depending on the State or Region. No attempt is made to list the most important industrial categories. Regions and States must make these specific determinations.

Permits that can be issued using efficient permitting mechanisms generally should receive higher priority than those which require regulatory resources out of proportion to their environmental significance. Permit issuance mechanisms which are more efficient include permits based on effluent guidelines, model permits, general permits, and computer-assisted permits. Certain industrial categories have more uniform discharge characteristics than others and are usually candidates for efficient permit issuance mechanisms.

The secondary industries have considerably less potential for toxics discharges and frequently discharge only conventional pollutants. Accordingly, these types of permits receive the lowest priority within this priority ranking factor.

### 4. All Other Permits

Permits which do not fit the above categories generally should be considered lowest priority for permit issuance.

#### Priorities for Minor Municipal Permits Issuance

The issuance and modification of minor municipal permits must reflect the established priority system in the National Municipal Policy (NMP) published in the Federal Register on January 30, 1974 (49 FR 3832). To the extent possible, permit actions necessary to support the NMP activities should be given high priority.

1. Permits Actions to Support National Municipal Policy Implementation. 2/

Where permits must be issued or modified to provide enforceable compliance schedules under section 301(i)(1) or to establish applicable effluent limits, they should be given high priority. Because major capital investments may be necessary to meet final permit limits, the municipality should be given final permit limits as quickly as possible to promote compliance at the earliest possible date. In descending order of priority, examples of permit actions in this category include (a) modifications to include compliance schedules for construction based on an approved Municipal Compliance Plan (MCP) document; (b) permit issuance following a §301(h) marine waiver decision; (c) secondary redefinition (40 CFR 133.105) permits where POTWs are eligible for such limitations; (d) other permit actions to implement composite correction plans (CCPs), such as conditions which require improved O & M procedures or BMPs which are necessary to achieve compliance.

2. Water Quality Impact

Permits impacting water quality should be considered high priority candidates for permit issuance. The discussion of water quality considerations presented on page 5 above (priority ranking factor for industrial permits) should be used to determine whether a municipal permit is included in this category.

3. "Special Priority" Waterbodies

Municipalities which discharge to these receiving waters should be treated in the same manner described on page 5 above for industrial sources.

4. Pretreatment

POTWs which are required to develop and implement local pretreatment programs are of special importance due to the potential for toxics discharge.

5. Minor Permit Issuance to Expedite Grant Funding Decisions

If permit limit decisions are causing delays in grant funding decisions (such as AT review comments which indicate permit changes are appropriate or a pending secondary redefinition decision) the permit should receive priority attention.

---

2/ These POTWs should already be identified in State Strategies or Section 106 Workplans as discussed in the March 1984 guidance document for the National Municipal Policy.

## 6. All Other Minor PCTWs

municipal permits which do not fit the above categories should be considered lower priority candidates for permit issuance. Privately-owned minors are included in this category.

Table 1 summarizes these priority ranking factors for both industrial and municipal permits.

### III. Timing

As required by CWAAS, strategies must be completed for each State by July 1, 1986. These strategies should be based on the principles and priorities presented in this document. Further, these strategies should form the basis for the identification of specific minor permits to be issued in accordance with SPMS and CWAAS commitments for FY 1987. These lists of specific minor permits should be developed prior to the end of FY 1986.

Strategies developed under this guidance should be reflected in the priorities established under the Section 106 workplans negotiated for FY 1987 by the States and EPA Regions.

Each State-by-State minor issuance strategy should be implemented immediately upon completion.

### IV. Minor Permit Issuance Tools

One of the purposes of this strategy is to identify and provide or develop tools for the regulatory agencies to use to facilitate minor permit issuance. Numerous documents exist which will immediately assist permitting authorities to issue minor permits. Existing tools are listed in Appendix B. Some of the more useful tools are the General Permit Program Guidance and Abstracts of Industrial NPDES Permits. Other tools are being developed or planned for development for development in FY 86. A package containing copies of the existing tools and a schedule for the development of future tools will be distributed to permitting authorities in February 1986.

### V. Summary

The national permit compliance system (PCS) indicates that approximately 23,000 minor permits, or about 40% of the total number of minor permits are currently expired and have not been reissued. Minor permit issuance strategies are therefore needed on a State-by-State basis to reduce this backlog of expired minor permits and to ensure that the most environmentally significant permits are issued in a timely manner. EPA's SPMS tracking and accountability system requires numerical commitments for the issuance of significant minor permits. Individual State minor permit issuance strategies are required by EPA's CWAAS accountability system in FY 86.

This system requires commitments from NPDES permit issuance authorities on total significant minors to be issued in FY86 together with development of State-by-State strategies by July 1, 1986. These State strategies are to be used in preparing lists of significant minor permits to be issued in FY 87.

This minor permit issuance strategy is intended to help EPA regional and State permit programs significantly reduce or eliminate backlogs of expired minor permits by FY 1990, while eliminating or achieving an absolute minimum backlog of expired major permits, maintaining relatively constant expiration and reissuance levels, and corresponding uniform workloads and resource demands.

EN-336:Hap:Be:2-3-86: #6(doc 17)  
REV:adg:2/12/86:REV:adg:2/13/86