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

OCT 5 1983

OFFICE OF WATER

MEMORANDUM

SUBJECT: Pretreatment Program Guidance

TO: Users of the Procedures Manual for Reviewing a POTW Pretreatment Program Submission

Rebecca W. Hanmer

FROM: Rebecca W. Hanmer
Acting Assistant Administrator for Water (WH-556)

This manual presents the procedures for EPA Regions and approved States to review local POTW pretreatment program submissions. It facilitates the determination whether the submittal contains the data and information required by the General Pretreatment Regulations (40 CFR Part 403), and whether the program is approvable. It provides the reviewers with a suggested separate checklist for reviewing each program element.

EPA Regional offices and States with approved programs must continue their efforts to review and approve local POTW pretreatment programs in their respective geographical areas. The approval of local POTW pretreatment programs is the cornerstone of the Agency's national pretreatment program.

While this approval is critical to the success of the national pretreatment program, Approval Authorities must ensure that all substantive parts of the local pretreatment program are present when the program is approved. Prematurely approving incomplete programs may cause major problems in the future. In instances where a segment of the program is not fully developed when the program is approved, then the Approval Authority and the POTW should publicly document (preferably in writing) that a segment of the program is not fully established and that it will be developed after approval in accordance with an agreed upon time table.

Approval Authorities can use this manual to review and approve any local POTW pretreatment program. However, when using the manual and its checklists, these Authorities must understand that the manual is for guidance and its use must be tailored to the complexity and size of the program under review. A program developed by a small POTW with relatively few industrial users should not be reviewed in the same manner as a program developed by a large POTW with many industrial users. The level of detail and sophistication in the former program will naturally be less than in the latter program. Approval Authorities must bear this fact in mind when using this manual.

I believe that Approval Authority personnel will find this manual to be a useful tool in reviewing local POTW pretreatment program submissions on a consistent basis. As this guidance may be revised periodically to reflect program experience or changes in program regulations, please feel free to write to the Office of Water Enforcement and Permits (EN-336) if you have suggestions on how the guidance may be improved or areas which should be addressed. Thank you.

United States
Environmental Protection
Agency

Office of
Water Enforcement
and Permits

October 1983

(A COPY OF THIS MANUAL IS AVAILABLE UPON REQUEST).

EPA

Procedures Manual for Reviewing a POTW Pretreatment Program Submission

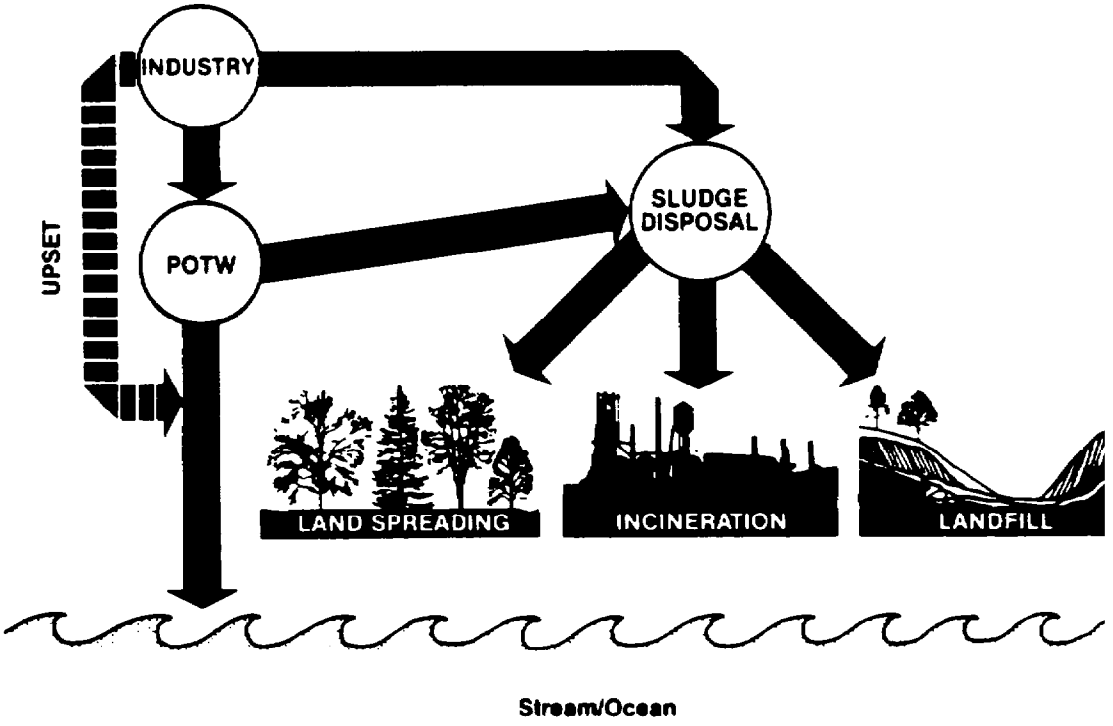

TABLE OF CONTENTS

	Page
1. INTRODUCTION	1-1
1.1 PURPOSE OF THIS MANUAL	1-1
1.2 HOW TO USE THIS MANUAL	1-2
1.3 COMMENTING ON PROGRAM SUBMISSIONS	1-3
2. LEGAL AUTHORITY	2-1
2.1 SUBMISSION COMPLETENESS	2-2
2.1.1 Relevant Regulations	2-2
2.1.2 Evaluation of Completeness	2-2
2.2 EVALUATION OF ATTORNEY'S STATEMENT	2-3
2.2.1 Relevant Regulations	2-3
2.2.2 Evaluation of Statement	2-4
2.3 LEGAL ADEQUACY	2-5
2.3.1 Relevant Regulations	2-5
2.3.2 Evaluation of Adequacy	2-5
2.4 MULTIJURISDICTIONAL SUBMISSIONS	2-13
2.5 LEGAL AUTHORITY CHECKLIST	2-14
3. TECHNICAL INFORMATION	3-1
3.1 INDUSTRIAL WASTE SURVEY	3-1
3.1.1 Adequacy of the Survey Master List	3-2
3.1.2 Thoroughness of Survey Questionnaire	3-3
3.1.3 Response to Survey	3-5
3.1.4 Completeness of Summary Information	3-5
3.2 LOCAL EFFLUENT LIMITS	3-6
3.2.1 Identification of Past POTW Operating Problems	3-7
3.2.2 Sampling and Analysis to Determine Fate and Effect	3-8
3.2.3 Development of Local Effluent Limits	3-10
TECHNICAL INFORMATION CHECKLIST	3-12A

TABLE OF CONTENTS (cont)

Page

4. PROGRAM IMPLEMENTATION PROCEDURES. 4-1

4.1 UPDATE THE INDUSTRIAL WASTE SURVEY. 4-1

4.2 NOTIFY INDUSTRIAL USERS OF APPLICABLE STANDARDS AND REQUIREMENTS. 4-2

4.3 UNDERTAKE COMPLIANCE MONITORING PROCEDURES. 4-3

4.3.1 Receive and Analyze Self-Monitoring Reports and Other Notices. 4-4
4.3.2 Conduct Compliance Sampling and Analysis 4-5
4.3.3 Investigate Noncompliance. 4-7

4.4 PUBLIC PARTICIPATION. 4-9

PROGRAM IMPLEMENTATION PROCEDURES CHECKLIST 4-12

5. ORGANIZATION, STAFFING, EQUIPMENT, AND FUNDING 5-1

5.1 RELEVANT REGULATIONS. 5-1

5.2 EVALUATION OF ORGANIZATION AND STAFFING 5-2

5.2.1 Clear and Appropriate Lines of Authority 5-3
5.2.2 Identification of Staff Responsibilities 5-4
5.2.3 Staff Qualifications 5-5
5.2.4 Staffing Levels. 5-5
5.2.5 Coordination with Other Departments. 5-6

5.3 EVALUATION OF EQUIPMENT 5-6

5.4 EVALUATION OF FUNDING 5-11

5.4.1 Implementation Costs 5-12
5.4.2 Financing Sources and Cost Recovery Systems. 5-15

RESOURCES CHECKLIST 5-18

APPENDIX A BIBLIOGRAPHY OF PRETREATMENT REFERENCES. A-1

APPENDIX B DEVELOPMENT OF DISCHARGE LIMITATIONS TO CONTROL INCOMPATIBLE POLLUTANTS. B-1

APPENDIX C PRIORITY POLLUTANTS AND CATEGORICAL INDUSTRY INFORMATION . C-1

LIST OF TABLES AND WORKSHEETS

		Page
WORKSHEET 1	LEGAL AUTHORITY CHECKLIST.	2-15
WORKSHEET 2	TECHNICAL INFORMATION CHECKLIST.	3-12
WORKSHEET 3	PROGRAM IMPLEMENTATION PROCEDURES CHECKLIST.	4-12
WORKSHEET 4	RESOURCES CHECKLIST.	5-18
TABLE 5-1	POTW PRETREATMENT PROGRAM PERSONNEL REQUIREMENT RANGES	5-7
TABLE 5-2	ESTIMATED POTW PERSONNEL REQUIREMENTS FOR A POTW PRETREATMENT PROGRAM BY PERSONNEL CATEGORIES	5-8
TABLE 5-3	ESTIMATED POTW PERSONNEL REQUIREMENTS FOR A POTW PRETREATMENT PROGRAM BY PROGRAM ACTIVITY	5-9
TABLE 5-4	TYPICAL EQUIPMENT FOR A TWO-MAN FIELD SAMPLING CREW. .	5-13
TABLE 5-5	TYPICAL COMMERCIAL LABORATORY COSTS.	5-14
TABLE 5-6	FACTORS AFFECTING POTW LEVELS OF EFFORT FOR PRETREATMENT PROGRAM OPERATING TASKS	5-16
TABLE 5-7	HYPOTHETICAL POTW PRETREATMENT PROGRAM OPERATIONAL COSTS.	5-17

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

DEC 29 1982

OFFICE OF WATER

MEMORANDUM

SUBJECT: Application Requirements for Modifications Under Sections 301(c) and 301(g) of the Clean Water Act

TO: Regional Administrators
State NPDES Directors
Director, NEIC

FROM: Bruce R. Barrett, Director Martha Prothro for
Office of Water Enforcement and Permits (EN-335)

An attorney representing electrical generating facilities has called to our attention a possible problem in the requirements for timing of submittal of requests for modifications under sections 301(c) and 301(g) of the Clean Water Act. The deadline established by the Clean Water Act for requesting a 301(c) or 301(g) modification may conflict in some cases with deadlines established by existing NPDES regulations at 40 CFR §122.53(i)(2). The regulation requires a "completed request" for a modification to be submitted by the close of the public comment period on the permit. This could, depending on the date of promulgation of the guideline, be much earlier than 270 days after promulgation of the guideline as provided by section 301(j) of the Act.

It may not always be possible for an applicant to complete his request for a 301(c) or 301(g) modification by the end of the public comment period as required by 40 CFR §122.53(i)(2)(ii). This problem can especially arise when the permitting authority provides public notice of a draft permit containing best available technology economically achievable (BAT) limitations from recently promulgated effluent limitations guidelines.

In the preamble to the June 7, 1979 NPDES regulations, the Agency addressed the timing issue as follows:

> In some cases, draft permits will contain effluent limits that are not based on effluent guidelines but may still be eligible for variances. In those cases, it would be impossible to submit supporting evidence that a variance should be granted during the 30-day period of public comment. Therefore, in those cases, and in other cases the Agency believes appropriate, the Regional Administrator may grant an extension for up to six months to allow the applicant to complete his or her submission.
> 44 FR 32882 (June 7, 1979) (Emphasis Added).

We bring this language to your attention now to ensure that you consider its use in situations where 301(c) or (g) requests address limitations based on recently promulgated effluent limitations guidelines.

Effluent Limitations Guidelines Limitations

Strict application of the NPDES regulations (40 CFR §122.53(i)(2)(ii)) may preclude an applicant from submitting a completed request for modification under section 301(c) or 301(g) related to effluent limitations based on recently promulgated effluent limitations guidelines. The statutory 270 day period for applications for modifications necessarily supercedes any shorter period required for a "completed request" required by 40 CFR §122.53(i)(2)(ii). In addition, even if the applicant has had 270 days for filing an initial request for modification, 40 CFR §122.53(k)(2) would allow the Regional Administrator, where appropriate, to grant an extension of up to six additional months.

If you have any questions on this matter, please contact Martha Prothro, Director, Permits Division (FTS or (202) 755-2545).

Attachments

cc: Regional Water Management Division Directors

Scott Slaughter
Hunton and Williams

Attachment I

40 CFR §122.53(i)(2) provides that

§122.53 Application for a permit.

...

(i) Variance requests by non-POTWs.

...

(2) Non-conventional pollutants.

A request for a variance from the BAT requirements for CWA section 301(b)(2)(F) pollutants (commonly called "non-conventional" pollutants) pursuant to section 301(c) of CWA because of the economic capability of the owner or operator, or pursuant to section 301(g) of CWA because of certain environmental considerations, when those requirements were based on effluent limitations guidelines, must be made by:

(i) Submitting an initial request to the Regional Administrator, as well as to the State Director if applicable, stating the name of discharger, the permit number, the outfall number(s), the applicable effluent guideline, and whether the discharger is requesting a section 301(c) or section 301(g) modification or both. This request must have been filed not later than:

(A) September 25, 1978, for a pollutant which is controlled by a BAT effluent limitation guideline promulgated before December 27, 1977; or

(B) 270 days after promulgation of an applicable effluent limitation guideline for guidelines promulgated after December 27, 1977; and

(ii) Submitting a completed request no later than the close of the public comment period under §124.10 demonstrating that the requirements of §124.13 and the applicable requirements of Part 125 have been met.

(iii) Requests for variances from effluent limitations not based on effluent limitations guidelines, need only comply with paragraph (i)(2)(ii) of this section and need not be preceded by an initial request under paragraph (i)(2)(i) of this section.

45 FR 33444-33445 (May 19, 1980).

under the Clean Water Act and are therefore subject to the same procedures that apply to permits generally.

In response to comments, affected States are now included in § 124.44(c). This revision clarifies the right of such States under sections 402(b)(5) and 401(a)(2) of the Act to require more stringent requirements so that a discharge of another State does not violate its water quality standards.

§ 124.45 Reopening of comment period.

Proposed § 124.44 (now § 124.45) allowed for reopening of a comment period (or reproposal of a permit) at the discretion of the Regional Administrator.

Several comments suggested an automatic "reply comment" period in which the discharger and others could respond to points made during the main comment period. EPA agrees that this may be a good idea in some specific cases, but it could be unnecessarily burdensome if required by regulation in all cases. Therefore, the proposal has not been changed.

Subpart F—Special Provisions for Variances and Statutory Modifications

In response to several suggestions, the procedures for variances have all been placed in a single Subpart. This revision is done to present the public with an organized view of how variances will be handled within the normal permit procedures.

Under the Clean Water Act and the former regulations, there are more than a dozen different statutory or regulatory provisions on which permit requirements could be based, and seven provisions under which a variance from those provisions could be granted. Many of these provisions are not covered in the existing regulations, and where they are, the references are scattered through various parts of the Code of Federal Regulations.

Subpart F deals with the problems in two ways. First, it consolidates into one Federal Register Subpart the former procedures for making decisions on permit terms contained in 40 CFR Parts 122 and 402 (relating to thermal discharge requirements) and the former Part 124.

Second, it specifies where in the sequence, "application—draft permit—comment—final permit", permit actions other than the simple one of deciding on permit applications should fit.

In particular, it provides that whenever possible, a variance must be applied for before the close of comment on a draft permit. This will ensure that there is an opportunity to consider all the relevant issues before deciding the terms of a final permit and that issues are not raised at a later date for purposes of delay. The regulations also provide that where a variance is properly requested after this stage but before a permit has become final under § 124.101, the decision on the variance will still be made through the same permit procedures that apply to other permits. This will be done in appropriate cases by issuing a new supplementary draft permit embodying the Agency's response to the variance request, and holding action on the original permit until the supplementary permit has reached the same procedural stage and the two permits can proceed together.

§ 124.51 Time deadlines for applications for variance from and modifications of effluent limitations.

(1) A number of comments argued that the time limits for variance applications set forth in proposed § 124.14 were too strict. These comments have been accepted in a number of particulars.

(a) The statute requires applications for variances under section 301(c) and under section 301(g) to be submitted 270 days after promulgation of the relevant effluent guidelines or by September 25, 1978, whichever is later. However, since EPA has not yet issued crieteria for such applications, it clearly would have been unreasonable to have required a complete application by last September. Accordingly, these regulations incorporate the requirements of previous interim final regulations stating that applicants need only have submitted a very brief notice by September 25, 1978, (or within 270 days of the promulgation of an applicable effluent guideline) to qualify under that deadline. See 43 FR 40859 (Sept. 13, 1978).

Similarly, in the case of section 301(h), § 124.51(c)(1) revises proposed 40 CFR § 233.32 to indicate that a preliminary application must have been submitted to EPA by the statutory deadline, but the final application should not be filed until the section 301(h) criteria are promulgated in final form in Part 125, Subpart G. The criteria, when promulgated, will also specify the method of, and timing for, making a final application. This revision to the timing requirement is necessary because the statutory deadline has passed and EPA has not yet issued section 301(h) criteria.

(b) Dischargers who wish to be considered for a section 301(c) or section 301(g) variance will be required to comply with the substantive requirements of § 124.43 and Part 125 (once they are promulgated) by the close of the public comment period of their draft permits.

In some cases, draft permits will contain effluent limits that are not based on effluent guidelines but may still be eligible for variances. In those cases, it would be impossible to submit supporting evidence that a variance should be granted during the 30-day period of public comment. Therefore, in those cases, and in other cases the Agency believes appropriate, the Regional Administrator may grant an extension for up to six months to allow the applicant to complete his or her submission.

However, there will be many times when waiting until the last minute of the comment period would not be in the interest of the permitting process, the applicant, or the public. Therefore, in those cases where it is clear that a discharger will be submitting an application for a variance, the Director may require the applicant to submit that application in full before the draft permit is formulated. This requirement is intended to reduce the time for permit issuance, especially in those cases where it is clear that a variance or modification will be applied for, such as where the discharger has submitted the 270 day application for a section 301(c) or 301(g) variance (§ 124.51(b)(2)(i)) or where a fundamentally different factors variance is still pending on the first permit. This will lower the permit processing costs for the permitting agencies, the applicant and the public because there will no longer be a draft permit subject to a public notice that is irrelevant to the issues in the final permit.

§ 124.52 Decisions on variances and modifications which EPA or the State can grant.

Section 124.52 explains how decisions will be made on variances. There is a distinction between the variances and modifications EPA and the States may grant and those the Act requires that only EPA may grant.

(1) Many commenters objected to EPA and not approved NPDES States making variance determinations for fundamentally different factors variances, economic variances, environmental variances, and section 301(h) secondary treatment waivers. These commenters thought the States with NPDES authority have the authority to rule on these particular variances.

The 1972 Amendments to the Federal Water Pollution Control Act carefully spell out the relationship between the Federal Government and the States in