

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region V

DATE: OCT 27 1978

TAB C

TO: Transfer of NPDES Federal Facilities Program Authority
Under Section 313 of the Clean Water Act to the State
of Michigan - Action Memorandum.

FROM: John McGuire
Regional Administrator

TO: Marvin B. Durning, Assistant Administrator
for Enforcement (EN-329)

Issue

Shall National Pollutant Discharge Elimination System (NPDES) program authority for Federal facilities be transferred to the State of Michigan?

Discussion

The 1977 Amendments to the Clean Water Act authorize states to assume NPDES authority over Federal facilities. On June 21, 1978, Michigan requested this authority and provided an Attorney General's opinion that the Michigan Department of Natural Resources has all of the necessary authority to administer the NPDES permit program for Federal facilities (See Tab A). Our Regional Counsel has reviewed the Attorney General Statement and concurs (See Tab B).

Assumption of NPDES authority, except for agencies and instrumentalities of the Federal Government, was transferred by the Administrator to Michigan on October 17, 1973 (See Tab C). The Memorandum of Agreement (MOA), which was signed as part of the approval of Michigan's NPDES program (See Tab D), contains no disallowance of Michigan's jurisdiction over Federal facilities. Therefore, the MOA does not need to be modified to allow Michigan to take NPDES jurisdiction over Federal facilities.

Recommendation

The request from Michigan to assume NPDES authority over Federal facilities, pursuant to Section 313 of the Clean Water Act, has been reviewed and is consistent with the March 10, 1978, Policy Guidance Memorandum from the Assistant Administrator for Enforcement and General Counsel covering transfer of authority. Therefore, I recommend that the request from the State of Michigan to assume NPDES authority over Federal facilities be approved. A suggested letter to the Governor of Michigan approving Michigan's assumption of authority is enclosed (See Tab E).

OCT 27 1978

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Decision of Regional Administrator

That the request from the State of Michigan to assume NPDES authority over Federal facilities, pursuant to Section 313 of the Clean Water Act, be approved.

Approve: _____

Disapprove: _____

Date: _____

Disposition

A letter to the Governor of Michigan with a copy to the Executive Secretary, Michigan Water Resources Commission has been prepared for signature of the Administrator (See Tab E).

Concurrence

Deputy Assistant Administrator
for Enforcement

Concur: _____

Nonconcur: _____

Date: _____

Enclosures: Tabs A - E

Decision of Assistant Administrator for Enforcement

Approve: _____

Disapprove: _____

Date: _____



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

Tab D

OFFICE OF ENFORCEMENT

Honorable Otis R. Bowen, M.D.
Governor of Indiana
Indianapolis, Indiana 46204

Dear Governor Bowen:

On January 1, 1975, Indiana received authority to administer the National Pollutant Discharge Elimination System (NPDES) within its borders. EPA's approval letter indicated that we would retain authority to issue permits for Federal facilities within the State. The reservation of authority over Federal facilities was necessary because the Federal Water Pollution Control Act (FWPCA) precluded State regulation of these facilities.

The 1977 amendments to the FWPCA specifically authorize the States to administer the NPDES permit program for Federal facilities. Accordingly, I have today approved the State of Indiana's request to assume this responsibility. I have today also approved a modification to the Memorandum of Agreement between EPA and the State allowing this transfer (copy enclosed). This approval overrides any contrary language in EPA's January 1, 1975, letter approving the State's NPDES program.

We are glad to transfer the administration of the NPDES permit program for Federal facilities to the State of Indiana. Region V will be working with the Indiana Stream Pollution Control Board to facilitate this transfer in a timely manner.

Sincerely yours,

Marvin B. Durning
Assistant Administrator
for Enforcement

Enclosure

cc: Mr. Oral H. Hert
Technical Secretary
Indiana Stream Pollution Control Board



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

215 Fremont Street
San Francisco, Ca. 94105

PUBLIC NOTICE OF PROPOSED ACTION

by the

U.S. Environmental Protection Agency
Region IX
215 Fremont Street
San Francisco, Ca. 94105

(415) 556-3450
June 23, 1978

On September 19, 1975, the Administrator of the Environmental Protection Agency gave approval to a request from the State of Nevada for authorization to administer the National Pollutant Discharge Elimination System (NPDES) permit program for discharges within the jurisdiction of the State. This authorization was made pursuant to Section 402(b) of the Federal Water Pollution Control Act Amendments of 1972. The authorization excluded discharges from facilities which are agencies or instrumentalities of the Federal government.

The 1977 Amendments to the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) provide, in Section 313, authority for states to regulate discharges from agencies or instrumentalities of the Federal government. The Administrator of the Environmental Protection Agency proposes to expand the State of Nevada's NPDES authorization to include Federal facilities.

All comments or objections received within 30 days of the date of this notice will be considered by EPA before taking final action. If sufficient public interest is expressed a public hearing may be held.