



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

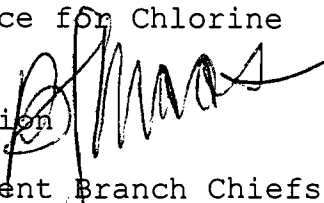
WASHINGTON, D.C. 20460

AUG 20 1996

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Significant Noncompliance for Chlorine

FROM: Brian J. Maas, Director
Water Enforcement Division 

TO: Regional Water Enforcement Branch Chiefs

Over the past several months, we have examined how violations of chlorine effluent limits will fit into the new definition of Significant Noncompliance (SNC) in the NPDES program. There have been a number of different proposals from Regions and States aimed at changing the way the new definition addresses chlorine. These proposals were discussed at the June 26, 1996, Regional Enforcement Branch Chiefs' conference call and in subsequent communications with various Regions.

Based on these discussions, there appears to be no general consensus at this time on any proposal to modify the SNC definition for chlorine. Therefore, I believe it is in the best interest of the water program to allow the new definition to be fully implemented according to the schedule approved by Assistant Administrator Steven Herman on September 21, 1995. As we gain more experience in addressing chlorine violations under the new definition, we can determine whether there should be a different approach.

The central issue in these discussions on chlorine SNC is whether a special case can be made that this particular parameter is sufficiently different from other parameters that it should receive special treatment for the purpose of triggering SNC. Under the SNC timely and appropriate process there is a presumption that formal enforcement action will be considered when SNC criteria are met unless compliance is achieved. However, given the nature of many chlorine limits and monitoring requirements, i.e., limits are usually instantaneous and monitoring may be performed 24 or more times per day, a violation based on one of those measurements may not present either a significant environmental concern or be indicative of substantial

deficiencies in operation and maintenance. The issue for chlorine is whether these violations could be considered an isolated event where the appropriate response would not routinely rise to the level of a formal action. In the near term, I suggest that when this conclusion is reached for an individual situation, the Regions should manually remove the SNC flag in the automated tracking system.

I remain open to additional discussions on chlorine SNC and believe that your experience in implementing the new definition for chlorine SNC violations will be important for our subsequent discussions. If there are questions regarding the chlorine SNC issue, please call me at (202) 564-2240 or Richard Lawrence at (202) 564-3511.

cc: Fred Stiehl
Carol Galloway