

MEMORANDUM OF AGREEMENT
BETWEEN THE
MICHIGAN WATER RESOURCES COMMISSION
AND
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V

INTRODUCTION

The Environmental Protection Agency (EPA) Guidelines for State program elements necessary for participation in the National Pollutant Discharge Elimination System (NPDES), 40 CFR 124, prepared pursuant to the authority contained in Section 304(h)(2) of the Federal Water Pollution Control Act Amendments of 1972 (referred herein as the Federal Act) were published in the Federal Register on December 22, 1972. Various sections of the Guidelines permit the Chief Administrative Officer of a State water pollution control agency and the Regional Administrator of EPA to reach agreement on the manner in which the 40 CFR 124 Guidelines are to be implemented.

To satisfy the requirements of the Guidelines, the following procedures are hereby agreed to by the Michigan Water Resources Commission, the Chief Administrative Officer of the Commission (referred to herein as the Executive Secretary), and the Regional Administrator.

The sections and subsections of 40 CFR 124 related to these agreements are: 124.22, 124.23, 124.35(b), 124.35(c), 124.41(c), 124.44(d), 124.46, 124.47, 124.61(b), 124.62(c), 124.71(c), 124.72(b), 124.73(b)(2), and 124.80(d). The terms used in this Memorandum of Agreement have the same meaning as those used and defined in 40 CFR 124.1.

I. SECTION 124.22 RECEIPT AND USE OF FEDERAL DATA

- A. The two purposes of this part of the agreement are: (1) to provide for the transfer of data bearing on NPDES permit determinations from the EPA to the State of Michigan, Water Resources Commission, and (2) to insure that any deficiencies in the transferred NPDES application will be corrected prior to issuance of an NPDES permit.
- B. Commencing immediately the Regional Administrator will transmit to the Executive Secretary a list of all NPDES permit applications received by EPA. This list will include the name of each discharger, SIC Code, application number and indicate whether EPA has determined which applications are complete.
- C. After receipt of the list, the Executive Secretary will identify the priority order to be used by EPA to transmit the application files to him. The application file will include the NPDES permit application and any other pertinent data collected by EPA. The application files will be transmitted to the Executive Secretary according to the priority order identified, and EPA will retain one copy of each file transmitted to the Executive Secretary.

- D. For an application identified as not complete by EPA, the Executive Secretary will obtain the necessary information from the discharger and correct the application. The Executive Secretary, at his discretion, may also obtain additional information for those applications identified by EPA as complete to update or process the application.
- E. Once the Executive Secretary determines that an application is complete, he will transmit two (2) copies of the completed application and a cover letter indicating that the application has been determined to be completed to the Regional Administrator, Attention: Permit Branch. If EPA concurs that the application is complete, one copy will be routed to the Regional Data Management Section, Surveillance and Analysis Division, for processing into the National Data Bank and the other copy will be placed in the NPDES Permit Branch file.
- F. The Executive Secretary will be advised by letter that the Regional NPDES Permit Branch concurs with his determination and that a copy of the application has been transmitted to the Data Management Section. If EPA determines that the application is not complete, the Regional NPDES Permit Branch will identify the deficiencies by letter to the Executive Secretary.
- G. No NPDES Permit will be issued by the Commission until all deficiencies identified by the U.S. EPA are corrected and the Executive Secretary receives a letter from EPA certifying to the Executive Secretary that the application is complete.

II. SECTION 124.23 TRANSMISSION OF DATA TO REGIONAL ADMINISTRATOR

- A. The Executive Secretary will transmit to the Regional Administrator copies of NPDES forms submitted by the applicant to the State. When the State determines that the NPDES forms received from the discharger are complete, two (2) copies of the forms with a cover letter indicating that the forms are complete will be transmitted to the Regional Administrator, Attention: Permit Branch. If EPA concurs with the Executive Secretary, one (1) copy will be routed to the Regional Data Management Section, Surveillance and Analysis Division, through the Compliance Section, Enforcement Division for processing into the National Data Bank and the other copy will be placed in the Regional NPDES Permit Branch file. The Executive Secretary will be advised by letter that EPA concurs with his determination and that a copy of the application has been transferred to the U.S. EPA Regional Data Management Section.* If EPA determines that the application is not complete, the deficiencies will be identified by letter to the Executive Secretary. No NPDES permit will be issued by the Commission until the deficiencies are corrected and he has been advised in writing by EPA that the application is complete.

* The State may input directly into the National Data Bank subject to prior approval of procedures by the NPDES Permit Branch and Data Management Section.

- B. Upon receiving an NPDES form from the Executive Secretary, should the Regional Administrator identify any discharge which has a total volume of less than 50,000 gallons on every day of the year as a discharge which is not a minor discharge, and notifies the Executive Secretary, the Executive Secretary will require the applicant for the discharge to submit additional NPDES application forms or any other information requested by the Regional Administrator.
- C. When requested by the Regional Administrator, the Executive Secretary will transmit copies of notice received by him from publicly-owned treatment works pursuant to 40 CFR 124.45(d) and (e) within 15 days of receipt of the request.
- D. The Regional Administrator may waive his rights to receive copies of NPDES forms with respect to classes, types, and sizes within any category of point sources and with respect to minor discharges or discharges to particular navigable waters or parts thereof. Such written waiver must be issued by the Regional Administrator before the Executive Secretary can discontinue transmitting to EPA copies of NPDES forms.

III. 124.35(b) and (c) PUBLIC ACCESS TO INFORMATION

- A. The Executive Secretary will protect any information (other than effluent data) contained in such NPDES form, or other records, reports or plans as confidential upon a showing by any person that such information if made public would divulge methods or processes entitled to protection as trade secrets of that person. If however, the information being considered for confidential treatment is contained in NPDES form, the Executive Secretary will forward such information to the Regional Administrator for his concurrence in any determination of confidentiality. If the Regional Administrator does not agree that some or all of the information being considered for confidential treatment merits such protection, he will request advice from the Office of General Counsel, stating the reasons for his disagreement with the determination of the Executive Secretary. The Regional Administrator will simultaneously provide a copy of the request to the person claiming trade secrecy. The General Counsel will determine whether the information in question would, if revealed, divulge methods or processes entitled to protection as trade secrets. In making such determinations, he will consider any additional information submitted to the Office of General Counsel within 30 days of receipt of the request from the Regional Administrator. If the General Counsel determines that the information being considered does not contain trade secrets, he will so advise the Regional Administrator and will notify the person claiming trade secrecy of such determination by certified mail. No sooner than 30 days following the mailing of such notice, the Regional Administrator will communicate to the Commission his decision not to concur in the withholding of such information, and the Commission and the Regional Administrator will then make available to the public, upon request, that information determined not to constitute trade secrets, unless an appeal is made to EPA by the person claiming trade secrecy. Following an appeal, the determination made by EPA will be conclusive unless reviewed in an appropriate district court of the United States.

- B. Any information accorded confidential status, whether or not contained in an NPDES form, will be disclosed by the Commission, upon written request, therefore, to the Regional Administrator, or his authorized representative, who will maintain the disclosed information as confidential.

IV. 124.41(c) DRAFT PERMIT OBJECTIONS

The Commission will not issue an NPDES permit for a discharge to which the Regional Administrator has objected in writing pursuant to any right to object provided in Section 402(d) of the Federal Act. The Regional Administrator will notify the Commission in writing of any objections he has within 90 days of receipt of a copy of a permit application. The resolution by the Commission of these objections will be communicated in writing by the Executive Secretary to the Regional Administrator, and no permit will be issued before written approval of such resolution by the Regional Administrator is received by the Commission.

V. 124.44(d) SCHEDULE OF COMPLIANCE IN ISSUED NPDES PERMITS

On the last day of the months of February, May, August, and November the Executive Secretary will transmit to the Regional Administrator, Attention: Compliance Section, Enforcement Division, a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of an NPDES permittee to comply with an interim or final requirement or to notify the Executive Secretary of compliance or noncompliance with each interim or final requirement [as required pursuant to paragraph, 40 CFR 124.44(b)]. The list will be available to the public for inspection and copying and will contain at least the following information with respect to each instance of noncompliance:

- (1) The name and address of each noncomplying NPDES permittee;
- (2) A short description of each instance of noncompliance (e.g. failure to submit preliminary plans, 2-week delay in commencement of construction of treatment facility, failure to notify the Executive Secretary of compliance with an interim requirement to complete construction by June 30, etc.);
- (3) A short description of any action or proposed action by the permittee or the Executive Secretary to comply or enforce compliance with an interim or final requirement; and
- (4) Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g. construction delayed due to materials shortage, plan approval delayed by objections from State Fish and Wildlife Agency).

VI. SECTION 124.46 TRANSMISSION TO REGIONAL ADMINISTRATOR
OF PROPOSED NPDES PERMITS

- A. At the time a public notice required by 40 CFR 124.32 is issued, the Executive Secretary will transmit one copy of the NPDES public notice, fact sheets, proposed NPDES permit and a list of all persons receiving the public notice, fact sheets and proposed NPDES permit, together with a description of any other procedure used to circulate the public notice, to the Regional Administrator, Attention: NPDES Permit Branch. The information transmitted with the proposed permit will include any and all terms, conditions, requirements, or documents which are part of the proposed NPDES permit or which affect the authorization by the proposed NPDES permit of the discharge of pollutants.
- B. After a Public Notice period has expired, the Commission will consider all comments received as a result of the Public Notice and may modify the proposed NPDES permit as it considers appropriate. Public hearings may be held as provided for in 40 CFR 124.36. If a public hearing is held, the Commission will consider all comments and may modify the proposed NPDES permit as it considers appropriate. If a public hearing is requested and should the Commission decide not to hold a public hearing, it will provide the Regional Administrator and all parties requesting the hearing, a written explanation of why the hearing was not held before submitting the proposed NPDES permit to the Regional Administrator for approval.
- C. If a proposed NPDES permit issued with a public notice is modified as a result of the Public Notice or public hearing, a revised copy of the proposed NPDES permit will be transmitted to the Regional Administrator, Attention: NPDES Permit Branch, together with a copy of all statements received from the public notice, and where a public hearing is held, a summary of all objections with a request for approval to issue the NPDES permit. In lieu of a summary, the Executive Secretary may provide a verbatim transcript of the entire public hearing.
- D. If a proposed NPDES permit is not revised after a public notice or where held, a public hearing, the Executive Secretary will notify the Regional Administrator, Attention: NPDES Permit Branch, by letter that the proposed NPDES permit issued with the public notice has not been revised and request approval to issue the NPDES permit. The request for approval will include a copy of all written statements received from the public notice.
- E. The Regional Administrator will be provided 90 days from the time the letter requesting approval specified in either paragraph C or D above is received in which the Regional Administrator pursuant to any right to object provided in Section 402(d) (2) of the Federal Act, may comment upon, object to or make recommendations with respect to the proposed NPDES permit. It is Regional policy to attempt to process each request for approval within 30 days. If no comment is received by the Commission within 90 days, it will assume that EPA has no objection to NPDES permit issuance.

- F. No NPDES permit will be issued by the Commission until it receives a letter from the Regional Administrator or his designee approving the issuance of the NPDES permit under Section 402(b) of the Federal Act, or if no comment is received by the Commission from EPA within 90 days as provided in E above.
- G. The Regional Administrator may waive his rights to receive, review object to, or comment upon proposed NPDES permits for classes, types, or sizes within any category of point sources. Such written waiver must be issued by the Regional Administrator before the Commission can issue an NPDES permit without EPA approval.

VII. 124.47 TRANSMISSION TO REGIONAL ADMINISTRATOR
OF ISSUED NPDES PERMITS

- A. The Executive Secretary will transmit to the Regional Administrator two (2) copies of every issued NPDES permit, Attention: NPDES Permit Branch, together with any and all terms, conditions, requirements, or documents which are a part of the NPDES permit or which affect the authorization by the NPDES permit of the discharge of pollutants.
- B. The Executive Secretary will transmit the above information at the same time the NPDES permit is issued by the Commission to the applicant together with a copy of the Executive Secretary's letter to the applicant forwarding the NPDES permit.

VIII. 124.61(b) MONITORING

- A. Permit conditions issued by the Commission for any discharge authorized by an NPDES permit which (1) is not a minor discharge, (2) the Regional Administrator requests, in writing, be monitored, or (3) contains toxic pollutants for which an effluent standard has been established by the Administrator pursuant to Section 307(a) of the Federal Act, will require monitoring by the permittee for at least the following:
- (i) Flow (in gallons per day); and
 - (ii) All of the following pollutants:
 - (a) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;
 - (b) Pollutants which the Commission finds, on the basis of information available to it, could have a significant impact on the quality of navigable waters;

- (c) Pollutants specified by the Administrator, in regulations issued pursuant to the Federal Act, as subject to monitoring ; and
 - (d) Any pollutants in addition to the above which the Regional Administrator requests, in writing be monitored.
- B. The Regional Administrator may make the request specified in A (2) and (3) above at any time before an NPDES permit is issued.
- C. The Commission will evaluate data submitted by NPDES permittees in NPDES reporting forms and other forms supplying monitoring data, for possible enforcement or remedial action. The Executive Secretary will transmit copies of the forms together with his evaluation where the data shows that effluent limits in the NPDES permits are exceeded to the Regional Administrator at a frequency consistent with the reporting frequency specified in the NPDES permit. Where monitoring data shows that effluent limits are exceeded, the Executive Secretary will identify the effluent limits exceeded, describe briefly any action or proposed actions by the NPDES permittee or the Commission to comply or enforce compliance with the limits and describe any details which tend to explain or mitigate an instance of noncompliance.

IX. 124.62 (c) MONITORING RESULTS

During the period of a permit, upon request of the Regional Administrator, the Commission shall notify and require the permittee to extend the normal 3 year retention of monitoring records under Section 124.62(c)

X. 124.71 (c) RECEIPT AND FOLLOW-UP OF NOTIFICATIONS AND REQUESTS

If the Executive Secretary determines that a condition of a permit to a publicly owned treatment works relating to a new introduction or changes in the volume or character of pollutants introduced into such treatment works is violated, he shall notify the Regional Administrator in writing and consider taking action under section 402(h) of the Federal Act relating to proceedings to restrict or prohibit the introduction of pollutants into treatment works.

XI. 124.72 (b) MODIFICATION, SUSPENSION AND REVOCATION OF NPDES PERMITS

- A. If the Executive Secretary, upon request of the permittee, decides to revise or modify a schedule of compliance for good cause, he shall notify the Regional Administrator in writing and, if no written objection is received from the Regional Administrator within 30 days of receipt of the notice, he shall deem it approved.
- B. Any such revision or modification of a schedule of compliance shall be included in proper time on the list submitted under Paragraph V of this Agreement.

XII. 124.73 (b) (2) ENFORCEMENT

The Executive Secretary or his authorized representative will notify the Regional Administrator by telephone as soon as he is notified of any actual or threatened endangerment to the health or welfare of persons resulting from the discharge of pollutants. The Executive Secretary or his authorized representative will utilize the telephone numbers identified in the current Regional Oil and Hazardous Materials Contingency Plan to notify the Regional Administrator. Telephone contact may be made with either the District Offices or the Regional Offices, as the Executive Secretary determines appropriate.

XIII. 124.80 (d) CONTROL OF DISPOSAL OF POLLUTANTS INTO WELLS

The Regional Administrator shall transmit to the Executive Secretary any policies, technical information or requirements specified by the Administrator in regulations issued pursuant to the Act or in directives issued to Environmental Protection Agency regional offices.

XIV. OTHER ITEMS

A. Attached hereto is a list of major dischargers which shall be given priority in processing and a schedule for such processing. This schedule is premised on the availability of guidance material from EPA for dischargers identified. Also attached is a six month schedule covering all permits to be processed in the six month period. This is the first part of the schedule aimed at completing all permits to be issued in the State of Michigan by December 31, 1974. The schedule will be expanded by the Executive Secretary on a quarterly basis thereafter to identify the remainder of the workload until all permits are issued. A copy of each quarterly schedule will be forwarded by the Executive Secretary to the Regional Administrator for review.

B. This Memorandum of Agreement may be modified by the Executive Secretary and the Regional Administrator following the public hearing to evaluate the States Section 402(b) program submittal on the basis of issues raised at the hearing. The hearing record will be left open for a period of 5 days following the hearing to permit any person to submit additional written statements or to present views or evidence tending to rebut testimony presented at the public hearing. Any revisions of agreements following the public hearing will be finalized, reduced to writing and signed by the Executive Secretary and the Regional Administrator prior to forwarding of the recommendations of the Regional Administrator to the Administrator of EPA for review and approval. The Executive Secretary and Regional Administrator will make any such revised agreements available to the public for inspection and copying.

C. All agreements between the State of Michigan and the Regional Administrator are subject to review by the Administrator of EPA. If the Administrator of EPA determines that any provisions of such agreements do not conform to the requirements of Section 402(b) of the Federal Act or to the requirements of the Section 304(h) (2) Guidelines, he will notify the State and the Regional Administrator of any revisions or modifications which must be made in the written agreements.

D. This Memorandum of Agreement will take effect upon program approval by the Administrator of EPA pursuant to Section 402(b) of the Federal Water Pollution Control Act Amendments of 1972.

This Memorandum shall remain in effect for the duration of such approved program or until the Memorandum is rescinded by mutual agreement of the parties. This Memorandum may be modified from time to time as the parties may agree in order to simplify the procedures and refine the methods contained herein.

Michigan Water Resources Commission

U. S. Environmental Protection Agency
Region V

By

By

Ralph W. Purdy
Ralph W. Purdy
Executive Secretary

Francis T. Mayo
Francis T. Mayo
Regional Administrator

9-7-73
Date

9/14/73
Date

C. All agreements between the State of Michigan and the Regional Administrator are subject to review by the Administrator of EPA. If the Administrator of EPA determines that any provisions of such agreements do not conform to the requirements of Section 402(b) of the Federal Act or to the requirements of the Section 304(h) (2) Guidelines, he will notify the State and the Regional Administrator of any revisions or modifications which must be made in the written agreements.

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Michigan Water Resources Commission

U. S. Environmental Protection Agency
Region V

By

By

Ralph W. Purdy

Ralph W. Purdy
Executive Secretary

Francis T. Mayo

Francis T. Mayo
Regional Administrator

9-7-73

Date

9/14/73

Date

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Michigan Water Resources Commission

U. S. Environmental Protection Agency
Region V

By

By



Ralph W. Purdy
Executive Secretary



Francis T. Mayo
Regional Administrator

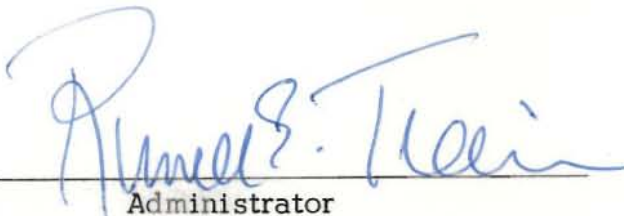
9-7-73

Date

9/14/73

Date

APPROVED:



Administrator
Environmental Protection Agency

OCT 17 1973


Date

OCT 27 1978

2

Decision

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: 10-27-78

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: 

Disapprove: _____

Date: 11/22/78

Prepared by: Almo H. Manzardo: (312) 353-2102: (9/18/78)

Enclosures: Tabs A - E

Decision of Assistant Administrator for Enforcement

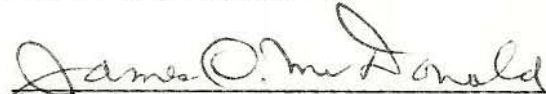
Approve: 

Disapprove: _____


Date: 12/9/78

OCT 27 1978


Regional Concurrences


James O. McDonald, Director
Enforcement Division

9/19/78
Date


Thomas F. Harrison
Regional Counsel

9/19/78
Date


Ronald L. Mustard
Office of Federal Activities

9/19/78
Date



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

NOV 22 1978

OFFICE OF ENFORCEMENT

MEMORANDUM

TO: Assistant Administrator for Enforcement (EN-329)

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

SUBJECT: Transfer of NPDES Authority over Federal Facilities to
Indiana and Michigan

The Regional Administrator for Region V recently sent you two packages asking that you approve the transfers of NPDES authority over Federal facilities to Indiana and Michigan. My staff has thoroughly reviewed these packages and they appear to fully satisfy your March 10, 1978, memorandum on this matter. Therefore, I have indicated my concurrence on both the action memoranda sent by the Regional Administrator.

If you approve of these transfers you should:

- 1) Indicate your approval by signing the Action Memoranda,
- 2) Approve the modification to the Indiana MOA by signing all three copies (no modification to the Michigan MOA is necessary), and
- 3) Sign the letters to the Governors of Michigan and Indiana.


Jeffrey G. Miller

Attachment

12/4/78
Signed - Thome
WMA

SMB
12/12



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

9 DEC 1978

OFFICE OF ENFORCEMENT

Honorable William C. Milliken
Governor of Michigan
Lansing, Michigan 48926

Dear Governor Milliken:

On October 17, 1973, Michigan became the first State in Region V approved by EPA 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 as to Federal facilities. Accordingly, I hereby approve the State of Michigan's request to assume this responsibility. This approval overrides any contrary language in EPA's October 17, 1973, 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 Michigan. Region V will be working with the Michigan Water Resources Commission to facilitate this transfer in a timely manner.

Sincerely yours,

A handwritten signature in cursive script that reads "Marvin B. Durning".

Marvin B. Durning
Assistant Administrator
for Enforcement

cc: Mr. Robert J. Courchaine
Executive Secretary
Michigan Water Resources Commission

A handwritten signature in cursive script that reads "D. Schnoff".



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUN 7 1983

THE ADMINISTRATOR

Honorable James L. Blanchard
Governor of Michigan
Michigan State Capitol
Lansing, Michigan 48913

Dear Governor:

It is with great pleasure that I am today approving the State of Michigan NPDES Pretreatment Program.

Your State is the fifteenth to request and receive approval for administration of this important program. My congratulations to you and your staff for the work the State of Michigan has done to accept the Pretreatment Program. The transfer of programs such as this to State management is, as you know, a major thrust of President Reagan's domestic policy.

We look forward to working with you and the Department of Natural Resources in continued efforts toward the prevention and control of water pollution in the State of Michigan.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "William D. Ruckelshaus".

William D. Ruckelshaus

Enclosure

cc: Howard A. Tanner, Director
Michigan Department of
Natural Resources

William D. Marks
Acting Executive Secretary
Michigan Water Resources Commission

Valdas V. Adamkus
Regional Administrator
Region V

① Elder 4/22
② LALOE & 4/1
③ RWH
FY

APR 16 1985

5WQP

Honorable James L. Blanchard
Governor of Michigan
Michigan State Capitol
Lansing, Michigan 48913

Dear Governor Blanchard:

It is with great pleasure that I am today reapproving the State of Michigan's National Pollutant Discharge Elimination System (NPDES) pretreatment program in accordance with the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR Part 403.

My congratulations to you and your staff for the work you have done in amending your NPDES State pretreatment program delegation application, to fully meet the requirements of the Clean Water Act, 40 CFR 403, and 40 CFR 123.

For your benefit, I am enclosing a copy of the public notice on the reapproval of your State's NPDES pretreatment program that will appear in the Federal Register on April 26, 1985.

We look forward to working with you and the Department of Natural Resources in continued efforts towards the prevention and control of water pollution in the State of Michigan.

Sincerely yours,

[s] Original signed by
ROBERT SPRINGER

Valdas V. Adamkus
Regional Administrator

Enclosure

cc: Ronald O. Skoog, Director
Michigan Department of Natural Resources
Paul D. Zuger, Executive Secretary
Michigan Water Resources Commission
Lee M. Thomas, Administrator, U.S. EPA

bcc: (w/o Enclosure)

Sutfin	Dzikowski	Schaefer (ORC)	Hammer (EN-335)	McCracken (MDNR)
Bryson	DeGraff	Ullrich (ORC)	Prothro (EN-336)	Baldwin (MDNR)
Fenner	Leder	Andersen (ORC)	Diamond (EN-336)	Moore (MDNR)
Cayer	Jones	M. Smith (ORC)	Gallup (EN-336)	
Harrison	Lin	Sims (ORC)	Young (EN-336)	
Manzardo	O'Grady	Constantelos (WMD)	Greenburg (EN-336)	
Shannon	Giattina	Kee (AMD)	Cherney (LE-132W)	
Ehorn	LeBlanc	Sanders (5S)	Weitman (LE-132W)	
Pratt	Tolpa	Springer (PMD)		
	Schulenberg	Canavan (ORA)		
	Newport			



JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY
"Better Service for a Better Environment"

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

INTERNET: www.deq.state.mi.us

RUSSELL J. HARDING, Director

REPLY TO:

 SURFACE WATER QUALITY DIVISION
 KNAPPS CENTRE
 PO BOX 30273
 LANSING MI 48909-7773

RECEIVED
JUN 09 2000

 U.S. EPA REGION 5
 OFFICE OF REGIONAL ADMINISTRATOR

June 5, 2000

Mr. Francis X. Lyons, Regional Administrator
 United States Environmental Protection Agency
 Region 5
 77 West Jackson Boulevard (R-19J)
 Chicago, Illinois 60604-3590

Dear Mr. Lyons:

Enclosed are two copies of the Addendum to the National Pollutant Discharge Elimination System Memorandum of Agreement (MOA) Between the State of Michigan and the United States Environmental Protection Agency (USEPA), Region 5, Concerning Michigan's Great Lakes Water Quality Standards and Implementation Procedures. Each copy has been signed by Michigan Department of Environmental Quality Director Russell J. Harding. We understand that, following your co-signature, we will receive one of the originals for our records. With the exception of whole effluent toxicity reasonable potential, the MOA addresses all remaining issues between the USEPA and Michigan regarding Michigan adoption of provisions consistent with the Final Guidance for the Great Lakes System (Federal Register 60, Number 56, March 23, 1995).

Finally, Michigan remains subject to the requirements of the National Toxics Rule, even though the provisions adopted as part of the Final Guidance for the Great Lakes System in July 1997, assured compliance with Section 303(c)(2)(B) of the federal Clean Water Act. We understand that the USEPA was waiting for the conclusion of the Great Lakes Initiative review effort prior to addressing the applicability of the National Toxics Rule in Michigan. Now that the USEPA review effort is essentially complete, we request the USEPA promptly notice Michigan's compliance with the requirements of Section 303(c)(2)(B).

If you need additional information, please contact Mr. James Grant, Chief, Great Lakes and Environmental Assessment Section, 517-335-4121, or you may contact me.

Sincerely,

David A. Hamilton, Chief
 Surface Water Quality Division
 517-335-4176

dah:jg:ls

Enclosures

cc: Mr. Russell J. Harding, Director, MDEQ
 Mr. James Grant, MDEQ
 Mr. William McCracken, MDEQ
 Ms. Brenda Sayles/WQS Files, MDEQ

**Addendum
to the
National Pollutant Discharge Elimination System
Memorandum of Agreement
Between the
State of Michigan
and the
United States Environmental Protection Agency, Region 5
Concerning Michigan's Great Lakes Water Quality Standards
and Implementation Procedures**

The federal Water Quality Guidance for the Great Lakes System (federal guidance), 40 CFR Part 132, contains the minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes system to protect human health, aquatic life, and wildlife. The Great Lakes states and tribes were required to adopt provisions consistent with (as protective as) the federal guidance for their waters within the Great Lakes system. The Michigan Department of Environmental Quality adopted Great Lakes system water quality standards and implementation procedures on June 16, 1997, and these rules became effective on July 29, 1997.

The United States Environmental Protection Agency Region 5 (EPA) and the Michigan Department of Environmental Quality (MDEQ) enter into this Addendum to their National Pollutant Discharge Elimination System (NPDES) Memorandum of Agreement to ensure that Michigan's rules concerning Great Lakes system water quality standards and implementation procedures are implemented in developing NPDES permits in a manner consistent with the federal guidance. If the MDEQ rules are modified to clarify the intent of the rules consistent with the interpretations listed below, EPA and MDEQ shall modify this MOA as necessary.

I. Mixing Zones for Intermittent Streams

Michigan's rules at R 323.1082 contain provisions governing mixing zones. One sentence in R 323.1082(1) provides that "[a] watercourse or portions of a water course that without 1 or more point source discharges, would have no flow except during periods of surface runoff may be considered a mixing zone for a point source discharge." MDEQ will not utilize this specific sentence to consider any watercourse or portion of any watercourse to be a mixing zone unless Michigan has obtained EPA approval of a site-specific modification to aquatic life criteria for that water course or portion of a watercourse demonstrating that the existing and expected aquatic life in the water course will be adequately protected in the absence of chronic aquatic life criteria. This Addendum to this MOA only addresses MDEQ's ability to allow mixing zones pursuant to the specific sentence set forth above and, with the exception of ammonia, applies only to substances addressed by R 323.1057. Nothing in this Addendum to this MOA affects or limits MDEQ's ability to allow mixing zones in accordance with any other provision of R 323.1082.

II. Water Quality-Based Effluent Limitations Below the Level of Quantification - Pollutant Minimization Plan Monitoring

Michigan's rules at R 323.1213(l)(d)(i) and (ii) provide that pollutant minimization plans included in permits that contain water quality based effluent limitations below the level of quantification must include a requirement for "periodic" monitoring of potential sources of the pollutant for which the WQBEL has been imposed and "periodic" influent monitoring for that pollutant. MDEQ always will require semi-annual monitoring of potential sources of those pollutants and quarterly monitoring for the pollutant in the influent of the wastewater treatment system pursuant to R 323.1213(l)(d)(i) and (ii), unless information generated by a pollutant minimization plan supports a determination that some other monitoring frequency is appropriate.

III. Water Quality-Based Effluent Limitations Below the Level of Quantification - Alternatives to Pollutant Minimization Plans

Michigan's rules at R 323.1213(d) provide that, where there is a WQBEL below the level of quantification, "[t]he permit shall contain a special condition requiring the permittee to develop and conduct a pollutant minimization program (PMP) . . . unless the permittee can demonstrate to the department that an alternative technique is available to assess compliance with the WQBEL." If Michigan approves an alternative technique as a basis for not requiring a permittee to develop and conduct a PMP, Michigan will require in the permit that the permittee use that technique to assess compliance with the WQBEL.

IV. Interim limits for compliance schedules.

Michigan's rules at R 323.1217(2) provide that permits that contain compliance schedules which go beyond the effective date of the permit must "set forth interim requirements and dates for achievement of the requirements, as appropriate." Whenever MDEQ issues a permit that allows for a compliance schedule that goes beyond the term of the permit, an interim permit limit effective upon the expiration date of the permit shall be included in the permit.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____

Russell J. Harding
Director

Date: _____

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 5

By: _____

Francis X. Lyons
Regional Administrator

Date: _____

**Addendum
to the
National Pollutant Discharge Elimination System
Memorandum of Agreement
Between the
State of Michigan
and the
United States Environmental Protection Agency, Region 5
Concerning Michigan's Great Lakes Water Quality Standards
and Implementation Procedures**

The federal Water Quality Guidance for the Great Lakes System (federal guidance), 40 CFR Part 132, contains the minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes system to protect human health, aquatic life, and wildlife. The Great Lakes states and tribes were required to adopt provisions consistent with (as protective as) the federal guidance for their waters within the Great Lakes system. The Michigan Department of Environmental Quality adopted Great Lakes system water quality standards and implementation procedures on June 16, 1997, and these rules became effective on July 29, 1997.

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MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

By: 

Russell J. Harding
Director

Date: 5/26/00

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 5

By: _____

Francis X. Lyons
Regional Administrator

Date: _____

NATURAL RESOURCES
COMMISSION

LARRY DEVUYST
PAUL EISELE
JAMES P. HILL
DAVID HOLLI
O. STEWART MYERS
JOEY M. SPANO
JORDAN B. TAYLOR

STATE OF MICHIGAN



JOHN ENGLER, Governor

DEPARTMENT OF NATURAL RESOURCES

Stevens T. Mason Building, P.O. Box 30028, Lansing, MI 48906

ROLAND HARMES, Director

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October 6, 1993

PERMIT SECTION
EPA REGION V

Mr. Valdas Adamkus, Regional Administrator
U. S. Environmental Protection Agency
Region 5 Headquarters
77 West Jackson Boulevard
Chicago, Illinois 60604

cc: WATER
RA/RF LTR. ONLY
WESTLAKE LTR. ONLY

Dear Mr. Adamkus:

In response to your letter of September 17, 1993, and consistent with Michigan Executive Order 1991-31, we are hereby submitting an amendment to Michigan's request for delegation of the National Pollutant Discharge Elimination System (NPDES) general permit program, which was sent to you on May 21, 1993.

As you know, Executive Order 1991-31 reorganized the Michigan Department of Natural Resources. The reorganization included shifting all responsibilities of the Michigan Water Resources Commission to the Department. Therefore, all references to the Michigan Water Resources Commission in the documentation included with our May 21, 1993 request are now being changed to the Department. We are enclosing revised copies of the following documents:

1. Amendment to the State/EPA Memorandum of Agreement regarding delegation of the NPDES program.
2. Michigan General Permit Program Description.
3. A statement from our Attorney General which supplements the previous Attorney General's statement submitted on May 21, 1993.

The amendments to the Part 21 rules are unchanged; however, Executive Order 1991-31 operationally changes the Water Resources Commission responsibilities to departmental responsibilities. Enclosed are copies of Executive Order 1991-31 Implementation Letter No. 1, along with our Department Calendar dated October 4, 1993, which provide additional explanation about how NPDES permit issuance will be carried out.

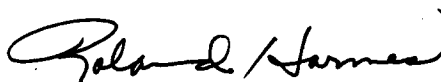
I trust that this information will provide sufficient documentation of the changes in the NPDES general permit program resulting from Executive Order 1991-31. We urge you to take quick action on our request for general permit delegation. We have a large number of wastewater discharges including a substantial number related to cleanup of contaminated sites which will be authorized immediately upon your approval of this delegation.



Mr. Valdas Adamkus
Page 2
October 6, 1993

If you have any questions regarding this submittal, please contact Mr. Gary Boersen of the Surface Water Quality Division at (517) 373-1982, or Mr. Gary Hughes, Assistant to the Deputy Director, at (517) 373-7917.'

Sincerely,



Roland Harmes
Director
517-373-2329

Enclosures

cc: Mr. Russell Harding, Deputy Director, MDNR
Mr. Gary Hughes, MDNR
Mr. Robert Miller, MDNR
Mr. Richard Powers, MDNR
Mr. Gary Boersen, MDNR

9/29/93

AMENDMENT
TO THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT
BETWEEN
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 5

The Memorandum of Agreement between the United States Environmental Protection Agency, Region 5 (EPA) and the Michigan Department of Natural Resources¹ (State) is hereby amended to include State and EPA responsibilities for the development, issuance and enforcement of National Pollutant Discharge Elimination System (NPDES) general permits as follows:

The State has the responsibility for developing and issuing NPDES general permits. After identifying dischargers appropriately regulated by a general permit, the State will collect sufficient effluent data to develop effluent limitations and prepare the draft general permit.

Each draft general permit will be accompanied by a fact sheet setting forth the principal facts and methodologies considered during permit development and will be transmitted to the following EPA offices:

Water Management Division Director
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, Illinois 60604-3590

Director, Office of Wastewater Enforcement and Compliance²
U.S. EPA (WH-546)
401 M Street, SW
Washington, D.C. 20460

¹Michigan Water Resources Commission responsibilities defined in the Michigan Administrative Code citations covered by this Amendment to the Memorandum of Agreement were transferred to the Michigan Department of Natural Resources pursuant to Executive Orders 1973-2, 1976-8 and 1991-31.

²General permits for discharges from separate storm sewers need not be sent to EPA Headquarters for review (40 C.F.R. 123.44(a)(2)).

EPA will have up to ninety (90) days to review draft general permits and provide comments, recommendations and objections to the State. In the event EPA does object to a general permit it will provide, in writing, the reasons for its objection and the actions necessary to eliminate the objection. The State has the right to a public hearing on the objection in accordance with 40 C.F.R. § 123.44. Upon receipt of EPA's objection, the State may request a public hearing. If EPA's concerns are not satisfied and the State has not requested a public hearing within 90 days of the objection, exclusive authority to issue the general permit passes to EPA.

If EPA raises no objections to a general permit it will be public noticed in accordance with Michigan Administrative Code, R 323.2117-2119, 2124, 2130-2131 and 40 C.F.R. § 124.10, including publication in a daily or weekly newspaper circulated in the area to be covered by the permit. The State will issue and administer NPDES general permits in accordance with Michigan Administrative Code, R 323.2189-2192 and 40 C.F.R. § 122.28.

The State also has the primary responsibility for conducting compliance monitoring activities and enforcing conditions and requirements of general permits.

All specific State commitments regarding the issuance and enforcement of general permits will be determined through the State's annual program plan submitted to EPA pursuant to Section 106 of the Clean Water Act.

This Amendment to the Memorandum of Agreement will be effective upon approval of the State's general permit program application by the Regional Administrator of EPA Region 5.

FOR MICHIGAN DEPARTMENT OF NATURAL RESOURCES:

Director

Date

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Regional Administrator
U.S. EPA, Region 5

Date

PROGRAM DESCRIPTION
MICHIGAN DEPARTMENT OF NATURAL RESOURCES
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT PROGRAM

This program description is submitted in accordance with 40 C.F.R. §123.22, in order to obtain approval by the U.S. Environmental Protection Agency (EPA) of the Michigan Department of Natural Resources (State) administration of the National Pollutant Discharge Elimination System (NPDES) General Permit Program. This program description supplements the description contained in the original application for delegation of the NPDES Program, dated July 17, 1973. The General Permit Program will be a subpart of the NPDES Program, currently administered by the State.

The Michigan Water Resources Commission was authorized to administer the NPDES Program on October 17, 1973. The Michigan Water Resources Commission received authority to administer the NPDES Program for Federal Facilities on December 9, 1978, and subsequently received authority to administer the Industrial Pretreatment Program on June 7, 1983. (R 323.2162 through 323.2186 and 323.2189, Michigan Administrative Code). All Michigan Water Resources Commission responsibilities defined in the Michigan Administrative Code rules referenced in this Program Description were transferred to the Michigan Department of Natural Resources pursuant to Executive Orders 1973-2, 1976-8, and 1991-31.

The Michigan General Permit Program has two components. The first provides for the issuance and administration of general permits at R 323.2191 and 2192. The Program also includes a regulation (R323.2190) that establishes a general permit specifically for storm water discharges from construction activities. Each component is described separately below.

I. General Permit Procedures for Discharges Under R 323.2191 and 2192

A. Introduction

The Michigan General Permit Program includes program regulations at R 323.2191 and 2192 that provide for the

issuance and administration of general permits. The General Permit Program has been designed to provide NPDES permit coverage for several classes of dischargers where individual permits for each class would be substantially similar. The General Permit Program will improve the administrative efficiency of Michigan's permitting program and allow staff resources to be concentrated on facilities which will require individual NPDES permits because they need facility-specific effluent limitations and conditions. Dischargers intended to be covered will include storm water discharges and other source categories as appropriate. Michigan is considering the potential applicability of general permits to categories such as discharges associated with ground water cleanups and non-contact cooling water discharges.

B. Administration:

The General Permit Program will be administered by the Michigan Department of Natural Resources, Surface Water Quality Division and Michigan Attorney General. A current organizational chart is attached.

C. Legal Basis:

The statement of the Michigan Attorney General is attached confirming that the State has adequate authority to operate the General Permit Program.

D. Special Procedures and Requirements for the Issuance and Enforcement of General Permits:

1. Applications

Applications for a general permit pursuant to R 323.2191 and 2192 will be required from dischargers. Application requirements are defined in R 3232.2192(a) and will be no less stringent than the requirements defined in 40 C.F.R. §122.28(b)(2)(ii). R 323.2192(b) requires an affirmative action by the State before a facility will be authorized to discharge under the general permit. Restrictions on the coverage of the general permit will be contained in the general permit.

2. General Permit Development

General permits under R 323.2191 and 2192 will be developed and issued in essentially the same manner as

individual permits. However, if the general permit will apply statewide, the public notice will require further distribution (see 3. below). General permits will be developed using Michigan Water Quality Standards or Federally promulgated water quality standards, where applicable, and any applicable EPA effluent guidelines. General permits under R 323.2191 and 2192 will be issued for a term no longer than five years. In accordance with the Memorandum of Agreement, general permits will be sent to EPA for review prior to issuance and will not be issued over the specific written objection of EPA.

3. Public Notice

All general permits will be accompanied by a Fact Sheet outlining the derivation of the permit limits. General permits under R 323.2191 and 2192 will be public noticed in accordance with EPA regulations and R 323.2117, 2119, 2125 and 2130-2131. If the general permit will apply statewide, the public notice will be published in three daily or weekly newspapers published in different parts of the state; at least one of which will have statewide circulation. This meets the requirements of 40 C.F.R. 124.10.

4. Compliance/Enforcement

If required by a general permit, dischargers will be required to submit a Discharge Monitoring Report (DMR) in accordance with the schedule contained in the general permit. DMRs will be periodically reviewed for permit compliance and data will be entered into the permit compliance system. All dischargers will be inspected at least once during the effective dates of the permit, if staff resources allow and/or if there is an indication of non-compliance. Enforcement actions will be taken as appropriate for the discharge and in accordance with the State's current enforcement strategy.

5. Individual Permit Requests

If a particular facility is authorized to discharge under a general permit, under R 323.2191 and 2192, and requests the issuance of an individual permit, the application may be processed as an application for an individual permit in accordance with R 323.2191(5). If a facility which is authorized to discharge under a

general permit is issued an individual permit, coverage under the general permit will be terminated when the individual permit is issued (R 323.2191(6)). If a facility is authorized to discharge under an individual permit and applies for coverage under a general permit, the Commission may terminate the individual permit and include the facility under the general permit (R 323.2192(d)). Aggrieved parties, including permittees, may seek review of a general permit's requirements by filing for a contested case hearing (R 323.2192(c)).

II. General Permit for Storm Water Discharges from Construction Activity under R 323.2190

A. Introduction

The State general permit for storm water discharges from construction activities was promulgated to provide permit coverage for those construction activities required to be permitted under the Federal regulations at 40 C.F.R. 122.26(a)(b)(14)(x)(ii). This "permit-by-rule" rule utilizes Michigan's Soil Erosion and Sedimentation Control Act (Act 347) as a major component. The permit-by-rule provides water quality protection through Act 347 permits which contain site-specific soil erosion control measures and conditions.

B. Administration

The permit-by-rule is administered by the State. Act 347 permit conditions are also requirements of the permit-by-rule. Compliance and enforcement activities under the permit-by-rule will be the responsibility of the MDNR Surface Water Quality Division.

C. Legal Basis

The statement of the Michigan Attorney General is attached confirming the State has adequate authority to operate the permit-by-rule program.

D. Special Procedures and Requirements for the Issuance and Enforcement of Permit by Rule

1. Applications

NPDES permit coverage for storm water discharges from construction activities pursuant to R 323.2190 will require submittal by the prospective permittee of a signed Notice of Coverage form (see attached example) R 323.2190(1)(a) and (b)). An Act 347 permit must be issued prior to submittal of the notice of coverage.

2. General Permit Development

The general permit for storm water discharges from construction activities (R 323.2190) was issued as a regulation under Michigan law, and became effective on November 13, 1992. Authorization to discharge storm water from construction activities under R 323.2190 will expire as described in R 323.2190(5), but in no case more than five years from the date of initial authorization.

3. Public Notice

R 323.2190 was public noticed in three daily newspapers, one of which has statewide circulation, was the subject of three public hearings, and was printed in the Michigan Register.

4. Compliance/Enforcement

Act 347 permits are issued by local agencies authorized under the State's Soil Erosion Control Act. These local agencies will have primary responsibility for enforcement of these permits. However, all Act 347 conditions are also conditions for discharge authorization under R 323.2190. The State will have the option for compliance/enforcement for any violation under the permit-by-rule, including conditions of an Act 347 permit. The State will be the responsible agency for enforcing conditions specific to R 2190. Enforcement actions will be taken as appropriate for any particular discharge, and in accordance with the State's current enforcement strategy.

5. Individual Permit Requests

If a particular discharger requests the issuance of an individual permit, the application will be processed in accordance with the rules as they are promulgated for individual permits.

If an individual permit is required by the State in accordance with R 2190 (3) or (4), the application for this discharge will also be processed in accordance with the rules as they are promulgated for individual permits.

III. Staffing and Resources for the General Permit Program:

Priority for issuing general permits under R 323.2191 and 2192 will be established through the Annual Water Quality Program Plan developed by the State in accordance with Section 106 of the Clean Water Act. The general permit for storm water discharges from construction activities was established when R 323.2190 was adopted. General permits under R 323.2191 and 2192 will be developed on an as needed basis, using the present staffing. The General Permit Program represents an administrative tool for Michigan to use in addressing point sources that presently, or in the future, will require NPDES permits. It is intended to improve NPDES program implementation efficiency, and does not create a new or expanded NPDES permit universe. Funding sources currently include, but are not limited to, State General funds and Federal funds under Section 104(b)(3) and 106 of the Clean Water Act. Michigan believes that it has adequate funding under current state and federal funding levels to issue and administer the General Permit Program as an element of its existing NPDES program.