

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance.

# NPDES Pretreatment Language – What is Required?

EPA-States

May 15, 2023

# Regulatory Background

## All POTWs

- 122.42(b)(1) – any new introduction of pollutants into the POTW from an indirect discharger which could be subject to **section 301 or 306 of the CWA** if it were indirectly discharging those pollutants
- 122.42(b)(2) – any substantial change in the volume or character of pollutants by an existing source

# Regulatory Background

## All POTWs

- 122.42(b)(3) – For purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

# Clean Water Act

- **Under CWA § 301:** it is unlawful for any person to discharge any pollutant into waters of the United States without authorization under specific provisions of the CWA, including § 402 (NPDES) and § 404 (discharge of dredged or fill material).
- **Under CWA § 306:** The term “standard of performance” means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

# Regulatory Background

## All POTWs

- 122.44(j)(1) – Identify in terms of character and volume of pollutants, any significant industrial dischargers into the POTW subject to Pretreatment Standards under 307(b) of CWA and 40 CFR part 403.

# Regulatory Background

## All POTWs

- 122.44(j)(2)(i) – Submit a local program when required by and in accordance with 40 CFR part 403 to assure compliance with pretreatment standards to the extent applicable under section 307(b). The local program shall be incorporated into the permit as described in 40 CFR part 403. The program must require all indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR part 403.

# Regulatory Background

## All POTWs

- 122.44(j)(2)(ii)– Provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1), following permit issuance or reissuance.

# NPDES Permit Application Requirements

- 122.21(j)(6)(i-iii)
  - Identify SIUs/CIUs
  - Characterize SIUs/CIUs and determine impacts to POTW in past 4.5 years
  - May be waived if the municipality has a local Pretreatment program or has submitted an annual report in the past year.



# NPDES Permit Application Requirements

- Application Form 2A – Municipal POTW
- Section D – Expanded Effluent Screening
  - If the treatment works has a design flow greater than or equal to 1.0 mgd or it has (or is required to have) a pretreatment program, then provide effluent testing data for the following pollutants (Metals, VOA, SVOA, Pest/PCBs)
  - At least 3 scans, not older than 4 ½ years.

# NPDES Permit Application Requirements

## Section F – Industrial Wastewater Discharges

- Pretreatment program?
- # of SIUs/CIUs
- POTW impacts
- SIU information:
  - contact info
  - Process information
  - Flow rate
  - Pretreatment Standards applicability

# Pretreatment Boilerplate Language

- Legal Opinion – Region 8
- Municipalities with Approved Programs
  - Implementation
  - Technical review of local limits
  - Annual Reports
- Municipalities without Approved Programs
  - NPDES requirements
  - Region 8 – Protection of POTW and Applicable Pretreatment Standards

# Pretreatment Boilerplate Language

- National Consistency
- Region 8 templates
  - Approved
  - Non-approved

# Example Permits

- Approved
- Non-approved

# Program Approval

- POTWS that **meet certain criteria** must develop Pretreatment programs to control industrial discharges into their collection systems.
- Approval Authorities (EPA and States) approve programs according to 40 CFR 403.11
- POTW requirements (substantive content and documentation) included in 40 CFR 403.8 and 40 CFR 403.9

# What is the Criteria?

## 40 CFR Part 403(a)

- Any POTW with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards
- POTW with a design flow of 5 mgd or less if the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent Interference with the POTW or Pass Through

# What is the Criteria?

## Easy

- POTWs with non-compliance of NPDES permit conditions attributable to IUs

## Not as Easy

- POTWs with CIUs or SIUs with a RP to cause Pass Through or Interference
  - Subject to Pretreatment Standards
  - RP?



# Approval Program Process

- POTW Evaluation
- 12-month notification – 40 CFR 403.8(f)
  - **Example Notification**
- Public Notice
- Incorporation into NPDES permit
  - **NPDES Permit Example**

# EPA/State as the Control Authority

- May 17, 2007 Boornizian Memo – Oversight of SIUs discharging to POTWs without Approved Pretreatment Programs
- 40 CFR 403.10(f)(2)(i) - In the absence of a POTW Pretreatment Program, the State shall have procedures to carry out the activities set forth in §403.8(f)(2)
- CIUs – self-implementing reporting and notification requirements



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