

reliance on the prior exclusion of silvicultural activities from the permit program, shall file such an application with the Regional Administrator by December 31, 1976.

(2) (i) Each application must be filed on a Short Form C and completed in accordance with the instructions provided with such form.

(ii) In addition to the information required in the Short Form C, the Regional Administrator may require any applicant to submit such other information as the Regional Administrator deems necessary to proceed with the issuance of the permit.

[41 FR 24712, June 18, 1976]

PART 128—PRETREATMENT STANDARDS

Sec.

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AUTHORITY: Sec. 307(b) Pub. L. 92-500; 86 Stat. 867 (33 U.S.C. 1317).

SOURCE: 38 FR 80983, Nov. 11, 1973, unless otherwise noted.

§ 128.100 Purpose.

The provisions of this part implement section 307(b) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) hereinafter referred to as "the Act".

§ 128.101 Applicability.

The standards set forth in § 128.131 apply to all non-domestic users of publicly owned treatment works. The standard set forth in § 128.133 applies only to major contributing industries.

§ 128.110 State or local law.

Nothing in this part shall affect any pretreatment requirement established by any State or local law not in conflict with any standard established pursuant to this part. In particular cases, a State or municipality, in order to meet the effluent

limitations in a NPDES permit for a publicly owned treatment works may find it necessary to impose pretreatment requirements stricter than those contained herein.

§ 128.120 Definitions.

Definitions of terms used in this part are as follows:

§ 128.121 Compatible pollutant.

For purposes of establishing Federal requirements for pretreatment, the term "compatible pollutant" means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. Examples of such additional pollutants may include:

- Chemical oxygen demand.
- Total organic carbon.
- Phosphorus and phosphorus compounds.
- Nitrogen and nitrogen compounds.
- Fats, oils, and greases of animal or vegetable origin except as prohibited under § 128.131(c).

§ 128.122 Incompatible pollutant.

The term "incompatible pollutant" means any pollutant which is not a compatible pollutant as defined in § 128.121.

§ 128.123 Joint treatment works.

Publicly owned treatment works for both non-industrial and industrial wastewater.

§ 128.124 Major contributing industry.

A major contributing industry is an industrial user of the publicly owned treatment works that: (a) Has a flow of 50,000 gallons or more per average work day; (b) has a flow greater than five percent of the flow carried by the municipal system receiving the waste; (c) has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under section 307(a) of the Act; or (d) is found by the permit issuance authority, in connection with the issuance of an NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

§ 128.125 Pretreatment.

Treatment of wastewaters from sources before introduction into the joint treatment works.

§ 128.130 Pretreatment standards.

The following sections set forth pretreatment standards for pollutants introduced into publicly owned treatment works.

§ 128.131 Prohibited wastes.

No waste introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(a) Wastes which create a fire or explosion hazard in the publicly owned treatment works.

(b) Wastes which will cause corrosive structural damage to treatment works, but in no case wastes with a pH lower than 5.0, unless the works is designed to accommodate such wastes.

(c) Solid or viscous wastes in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(d) Wastes at a flow rate and/or pollutant discharge rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

§ 128.132 Pretreatment for compatible pollutants.

Except as required by § 128.131, pretreatment for removal of compatible pollutants is not required by these regulations. However, States and municipalities may require such pretreatment pursuant to section 307(b)(4) of the act.

§ 128.133 Pretreatment for incompatible pollutants.

In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guideline defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act: *Provided*,

That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further that when the effluent limitations guideline for each industry category is promulgated, a separate provision will be proposed concerning the application of such guideline to pretreatment.

§ 128.140 Time for compliance.

(a) Any owner or operator of any source to which the pretreatment standards required by this part are applicable, shall be in compliance with such standards within the shortest reasonable time but not later than three years from the date of their promulgation; except that for § 128.133, the three year compliance period for any user shall commence with the date of promulgation of a provision, as required by § 128.133, setting forth the application to pretreatment of the effluent limitations guidelines for the applicable industrial category.

(b) In order to ensure such compliance, each such owner or operator shall commence construction of any required pretreatment facilities within 18 months from the date of final promulgation of the provision required by § 128.133, setting forth the application to pretreatment of the effluent limitations guidelines. By the time construction is required to be commenced, each such owner or operator shall furnish to the Regional Administrator (or to any State agency with an approved NPDES permit program) a report, on a form to be prescribed by the Administrator, which shall set forth the effluent limits to be achieved by such pretreatment facilities and a schedule for the achievement of compliance with such limits by the required date. A copy of such report shall be furnished to the municipality or agency operating the publicly owned treatment works into which such pollutants are discharged. Thereafter, each such owner or operator shall furnish the Regional Administrator or his designee with such additional information or reports (including information relating to compliance with effluent limits and schedules for completion of pretreatment facilities) as he may request.

(c) Nothing contained herein shall prevent any municipality or other agency from requiring more stringent pretreatment standards or a more stringent compliance schedule, than as set forth in this part.

PART 129—TOXIC POLLUTANT EFFLUENT STANDARDS

Subpart A—Toxic Pollutant Effluent Standards and Prohibitions

- Sec.
- 129.1 Scope and purpose.
- 129.2 Definitions.
- 129.3 Abbreviations.
- 129.4 Toxic pollutants.
- 129.5 Compliance.
- 129.6 Adjustment of effluent standard for presence of toxic pollutant in the intake water.
- 129.7 Requirement and procedure for establishing a more stringent effluent limitation.
- 129.8 Compliance date.
- 129.9–129.99 [Reserved]
- 129.100 Aldrin/dieldrin.
- 129.101 DDT, DDD and DDE.
- 129.102 Endrin.
- 129.103 Toxaphene.
- 129.104 Benzidine.
- 129.105 Polychlorinated Biphenyls (PCBs).

AUTHORITY: Sec. 307, 308, 501, Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92–500, 86 Stat. 816, (33 U.S.C. 1251 et seq.).

SOURCE: 42 FR 2613, Jan. 12, 1977, unless otherwise noted.

Subpart A—Toxic Pollutant Effluent Standards and Prohibitions

§ 129.1 Scope and Purpose.

(a) The provisions of this Subpart apply to owners or operators of specified facilities discharging into navigable waters.

(b) The effluent standards or prohibitions for toxic pollutants established in this Subpart shall be applicable to the sources and pollutants hereinafter set forth, and may be incorporated in any NPDES permit, modification or renewal thereof, in accordance with the provisions of this Subpart.

(c) The provisions of 40 CFR Parts 124 and 125 shall apply to any NPDES permit proceedings for any point source discharge containing any toxic pollutant for which a standard or prohibition is established under this Part.

§ 129.2 Definitions.

All terms not defined herein shall have the meaning given them in the Act or

in 40 CFR Parts 124 or 125. As used in this Part, the term:

(a) “Act” means the Federal Water Pollution Control Act, as amended (Pub. L. 92–500, 86 Stat. 816 et seq., 33 U.S.C. 1251 et seq.). Specific references to sections within the Act will be according to Pub. L. 92–500 notation.

(b) “Administrator” means the Administrator of the Environmental Protection Agency or any employee of the Agency to whom the Administrator may by order delegate the authority to carry out his functions under section 307(a) of the Act, or any person who shall by operation of law be authorized to carry out such functions.

(c) “Effluent standard” means, for purposes of § 307, the equivalent of “effluent limitation” as that term is defined in section 502(11) of the Act with the exception that it does not include a schedule of compliance.

(d) “Prohibited” means that the constituent shall be absent in any discharge subject to these standards, as determined by any analytical method.

(e) “Permit” means a permit for the discharge of pollutants into navigable waters under the National Pollutant Discharge Elimination System established by section 402 of the Act and implemented in regulations in 40 CFR Parts 124 and 125.

(f) “Working day” means the hours during a calendar day in which a facility discharges effluents subject to this Part.

(g) “Ambient water criterion” means that concentration of a toxic pollutant in a navigable water that, based upon available data, will not result in adverse impact on important aquatic life, or on consumers of such aquatic life, after exposure of that aquatic life for periods of time exceeding 96 hours and continuing at least through one reproductive cycle; and will not result in a significant risk of adverse health effects in a large human population based on available information such as mammalian laboratory toxicity data, epidemiological studies of human occupational exposures, or human exposure data, or any other relevant data.

(h) “New Source” means any source discharging a toxic pollutant, the construction of which is commenced after proposal of an effluent standard or prohibition applicable to such source if such effluent standard or prohibition is thereafter promulgated in accordance with section 307.