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Office of Water Enforcement

**PA**

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Water

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# Municipal Management System

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MUNICIPAL MANAGEMENT SYSTEM

For Construction Grants, NPDES Permit, and  
Enforcement Under the Clean Water Act  
and the National Municipal Policy & Strategy

U.S. Environmental Protection Agency  
Office of Water Enforcement  
Office of Water Program Operations

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## PURPOSE OF THIS GUIDE

This guide will provide the basis for establishing a relatively uniform method of managing grant schedules and municipal permits, and initiating actions to achieve compliance with all enforceable requirements of the Clean Water Act.

## WHO SHOULD USE THIS GUIDE

This guide is intended for two groups of potential users:

- ° The Regional/State managers and supervisors who must organize, plan, and control the numerous research, decision-making, and response functions that make up the process of municipal management.
- ° The clerical, technical, and legal personnel who engage daily in municipal management operations to review performance and make the decisions which ultimately establish the integrity of the Agency's Municipal Management Program.

- CONTENTS -

FOREWORD	v
ACKNOWLEDGEMENTS	vii
I. Municipal Management System	
A. Background	1
B. Principles of MMS	4
C. Implementation of MMS	5
D. Discussion of MMS Principles:	7
1. Integrated Data Base	7
2. Coordinated Information Flow	12
3. Consistent Permit & Grant Schedules	14
4. Consistent, Periodic, Compliance Evaluations	15
5. Coordinated Regulatory Responses	16
6. Coordinated Permit Extensions	18
7. Internal Management Controls	19
8. Public Reporting on Municipal Compliance	20
9. Coordinated State Project Priority Lists	21
10. Coordinated Use of Field Inspection Data	22
II. APPENDICES	
A. MMS Development Schedule	
B. Milestones for NPDES Permit Schedules	
C. PCS/GICS Cross-Reference Index	
D. Permit Development Procedures	
E. Noncompliance Response Guide	
F. Guidance in Integrating COE & NPDES Inspections	

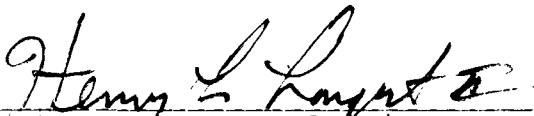
## FOREWORD

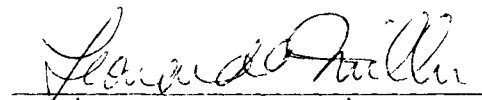
This publication is a guide. Beyond the specific requirements identified in the text, it is meant to be a standard with which users may evaluate the effectiveness of their management systems. The intent is to aid the Regional/State users in setting priorities for managing grant schedules and municipal permits based on limited resources and the need to provide a consistent level of response to the regulated public. It is hoped that this GUIDE will encourage program planners to reevaluate the effectiveness of their management operations, develop an increased awareness of review and decision functions, maintain surveillance of them, and initiate and carry out appropriate actions under the National Municipal Policy and Strategy (NMPS).

This publication is called a 'guide' to indicate that the manager has been given a logical procedure to follow in organizing the sequence of compliance-review procedures into an efficient information system. Beyond specific requirements, the manager is given general instructions and therefore must use sound management procedures to develop a usable program.

This guide may be updated to provide the latest thinking on permit/grant priorities, enforcement strategies, and resource allocations, and offer practical ideas for carrying out responsibilities stemming from other National commitments.

Success depends in a large measure on maintaining a strong sense of accountability, making maximum use of clerical and technical positions, and performing self-assessment with renewed determination. The improved quality of our operations rests upon the Agency's awareness of its effectiveness in meeting the requirements of the NMPS under the Clean Water Act.

  
Deputy Assistant Administrator  
for Water Program Operations

  
Acting Deputy Assistant  
Administrator for Water  
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## ACKNOWLEDGEMENTS

This document has been prepared with painstaking effort by a number of persons whose devotion to the National Municipal Management Program is exemplary. Over a long period, they have been relied upon to contribute not only their time but also the unique perspective which they can bring to bear on the administration of a National program conducted at the local level. Through their hard work and dedication, the Offices of Water Enforcement (OWE) and Water Program Operations (OWPO) are closer to the goal of increased efficiency and responsiveness in the management of construction grants and municipal permits. The unified approach developed by the following workgroups and documented in the MMS Guide will become the foundation of EPA's National Municipal Policy and Strategy. In addition, these offices are indebted to their clerical staff, most notably Joyce Rivers, without whose patience and tireless service this document would not have been assembled.

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## MUNICIPAL MANAGEMENT SYSTEM

### Introduction and Background

An analysis of municipal compliance with the requirements of the Clean Water Act has shown that approximately 60% of the major sources did not meet the requirement for secondary treatment by the statutory deadline of July 1, 1977. Through section 201 of the Act, the Federal Government has made available nearly 31 billion dollars for the construction of adequate public treatment facilities. A number of States also have construction grant programs. For various reasons, not all of the Federal and State funds are being obligated at a satisfactory rate or being applied to the highest priority needs. Faced with the two interrelated problems of high municipal noncompliance and the need for accelerated construction of required treatment facilities, the U.S. Environmental Protection Agency (EPA) issued the "Interim National Municipal Policy and Strategy" (NMPS) in November 1978. The final policy was issued in October 1979. This policy provides the necessary background to this document. The purpose of the NMPS is to integrate the permit, enforcement, and construction grant activities so as to expedite municipal construction and increase municipal compliance in order to improve the Nation's water quality.

An outgrowth of the NMPS was the creation of work groups to develop a Municipal Management System (MMS). Three work groups

developed key aspects of MMS and a fourth "overview" group developed the management guidance. The work draft group reports were sent to Regional Administrators and State Program Directors on June 4, 1979. They provide supplemental information on the principles of MMS.

In 1977, EPA issued the Enforcement Management System (EMS) Guide, which was developed by Federal and State workgroups. The EMS principles were designed to organize each analytical function within the compliance review and enforcement process in order to evaluate information in an orderly, timely, and consistent fashion and to initiate the appropriate enforcement actions in an effective, timely manner. MMS, from the enforcement perspective, is a necessary extension of EMS. In essence, MMS is a more detailed focus on the municipal enforcement requirements of EMS. The principles of EMS remain unchanged and will continue to be followed. From the construction grants perspective, MMS should be viewed as a set of coordinating procedures. The EMS principles are not being made an operational requirement of the construction grant program.

MMS is a series of ten principles and their subparts. When implemented by State and Federal construction grants, permits, and enforcement programs, it should reduce paperwork and increase communication and coordination between and within these programs.

The overall objective of MMS is to increase the rate of municipal compliance and the rate of municipal construction. MMS principles will be made effective through the mutual development of written procedures by the Federal and State construction grant, permit, and enforcement programs. Procedures, by necessity, should be flexible, yet stress accountability. These procedures must stress, 1) the coordinated flow of pertinent compliance information common to these programs, 2) the routine evaluation of compliance data (including municipal inspection data) in decision making, and 3) the use of compliance data as the basis for the escalation of enforcement actions. These principles should be administered so that they integrate the critical data-management and decision-making activities of the permit, grant, and enforcement programs. In this way, compliance is obtained through the expeditious handling of grant funds and the timely response to grant-related permit violations.

Procedures and activities associated with MMS should focus on those projects within the top 106 SMSAs which have treatment needs in excess of \$50 million and which are on the fundable portion of the State Project Priority Lists (PPLs). These criteria apply regardless of when the permit was issued. In areas where these criteria do not apply, emphasis should be placed on reissued major permits. Where it is appropriate, written MMS procedures will be incorporated into formal EPA/State agreements, 106 program grants,

205(g) agreements, or any other working agreements. On an annual basis, both agencies will update these procedures and any formal changes will be incorporated into the appropriate documents.

#### The Principles of MMS

There are ten basic principles that are common to an effective MMS. These are:

1. An integrated database (established through the PCS/GICS interface) of common grant and permit/compliance information. (The data base is to be updated periodically, i.e. at least quarterly)
2. Coordinated information flow.
3. Consistent permit and grant schedule requirements.
4. Consistent and periodic permit and grant compliance evaluations.
5. Coordinated initiation of regulatory responses to permit/grant violations.
6. Coordinated review and action on permit and grant extension requests.
7. Internal management controls.
8. Public reporting on the status of municipal compliance.
9. Coordinated development and modification of State Project Priority Lists (PPL).
10. Coordinated use of all field inspection data in compliance evaluations.

A discussion of these principles and their subparts begins on page seven.

#### Implementation of MMS

Both EPA and the States have responsibilities in the permit, grant, and enforcement programs. In the construction grant program, a State can assume the primary role through section 205(g) of the Act. In the municipal permit program, a State can also be delegated primary authority for the administration of the National Pollutant Discharge Elimination System (NPDES), including permit issuance and enforcement, through section 402(c) of the Act. The authority for these two programs may be held in four ways:

1. U.S. EPA delegates 205(g) and NPDES to a State,
2. U.S. EPA delegates 205(g) and has not delegated NPDES,
3. U.S. EPA does not delegate 205(g) and has delegated NPDES, and
4. U.S. EPA does not delegate 205(g) and has not delegated NPDES.

Within each of these combinations, both EPA and the State have major roles to play. The agency with primacy must coordinate its activities, relative to a specific municipality, with its partner in the program. This coordination must be achieved in order to insure the effectiveness of the delegated program activity. By

defining and writing the procedures that delineate who will do what and when (in dealing with municipalities), opportunities for problems will be greatly reduced.

In developing an MMS, the agency with primacy will take the lead in developing the procedures that describe the dual relationship and the responsibilities for the joint administration of the program. Once the procedures for the coordination of the permit, grant, and enforcement programs are negotiated, both the Federal and State agency shall cooperate to develop a final written document that describes how these procedures will effect the principles of MMS in both jurisdictions. Fulfillment of the principles of MMS is a means of achieving greater National consistency in the grants/enforcement programs.

It cannot be stressed strongly enough that, throughout the process described by these coordinating procedures, a minimum amount of inter-agency or intra-agency review and concurrence should occur while still insuring that the proper parties agree to actions at necessary steps in the process. The objective is to keep paperwork to a minimum and enhance communication and coordination (reference section 101(f) of the Clean Water Act).

### Discussion of MMS Principles

Each MMS principle has certain subparts associated with it. Fulfillment of the principle is not complete without implementation of the required subpart. Moreover, each agency must develop time-frame controls at appropriate levels in the decision-making process. MMS does not stipulate what these time frames should be. Each agency will establish appropriate time frames for the review and handling of information to assure effective management control.

PRINCIPLE 1: An integrated database (established through the PCS/GICS interface) of common grant and permit/compliance information. (The data base is to be updated periodically, i.e. at least quarterly)

The permit, grants, and enforcement programs require that municipal permittees submit similar information to each of them. A common database composed of shared information among the program areas is necessary for effective coordination of both compliance and grant activities. The term database is defined as an information pool used for various levels of management decision making. The database will consist of information from the Grants Information Control System (GICS) and the Permit Compliance System (PCS) pulled together and displayed on reports which show the status of grants and enforcement activities. Moreover, the system will provide a basis for identifying those facilities in violation of

their compliance and grant schedules. So that one program does not unilaterally initiate a particular action based on data supplied by the MMS system, it is important that each coordinates its response with the other interdependent programs. In this manner, it will be clear to the permittee/grantee and to the rest of the regulated public that the Agency is acting with firmness and consistency.

The relationship among the permit, grant, and enforcement programs is based in part upon the common information that is critical to each. As stated in the National Municipal Policy and Strategy, the following priority list must be followed:

1. Active grants with pretreatment requirements: step 3, step 2, step 1,
2. Grantees on the fundable portion (one year) of the project priority list (grants not yet awarded): step 3, step 2, step 1,
3. Active major grantees (funded from previous project lists): step 3, step 2, step 1,
4. Active minor grantees (funded from previous project lists): step 3, step 2, step 1, and
5. Unfunded projects (if funding becomes available in FY 1980).

Within the context of these priorities, emphasis should be placed on major permittees within the top 106 SMSAs as noted before.



In order to address the permit and grant problems in these areas, an appropriate database must be established and must include the following at a minimum:

1. The status of each grant. The following information, at a minimum, is to be developed and maintained on the status of each grant:
  - a. The specific grant project numbers tied to POTWs should be identified. Because the focus of permit and enforcement efforts is on the treatment facility, 'pipe' projects (interceptors and collector sewers) should not be listed unless they are critical to providing proper treatment at the treatment site. Treatment-related projects should be displayed in sufficient detail so that specific treatment processes are identified.
  - b. The exact status of the grant in the grant process. Tables or charts should summarize where projects are in the grant process and identify problems which either prevent or delay the progress of the grant.
  - c. The next step which needs to be accomplished in the grant process.
  - d. Other, mutually agreed upon information needs.
2. The status of each permit. The following data elements, at a minimum, are to be maintained to relate a specific permit (and its Publicly Owned Treatment Works (POTW) with its associated grant (identified in 1.a. above).

This information is to be developed by the State or Federal agency that has been delegated the NPDES program.

- a. The specific permit number.
- b. The permit effluent limits.
- c. The construction schedule in the permit, (i.e. events and dates).
- d. Any other schedules outlined in the permit.

3. Municipal NEEDS Survey Information

- a. Nature and status of facility
- b. Cost estimate by NEEDS category
- c. Authority and facility identification

Following the establishment of the database, it must be kept current. It is necessary to establish a process for updating and exchanging information between the grants and enforcement programs. In addition, written procedures are necessary for the transmission of this information between interdependent programs so that their separate activities can be coordinated. Data for major facilities in both the grants and enforcement programs should be updated quarterly. Data for minors should be updated semi-annually.

EPA has a basic computer interface to link the data systems in its compliance and construction grant programs. The technical requirements for this link are discussed in Appendix C. This interface is considered to be one of the key aspects of the consolidated

approach to municipal enforcement. Given the volume and complexity of the municipal compliance and grant information that must be processed between interdependent programs at both the Federal and State levels, it is imperative that Regions and States seek to achieve the first principle of MMS through the use of available ADP systems and the Headquarters cross-reference index. The interface will contain three major component systems:

1. GICS,
2. NEEDS Survey Cross-Index, and
3. PCS

The HQ cross-reference index links the permit (PCS) file at the facility level with the grant (GICS) file at the grant level. This linkage will provide the Regions with the capability to display critical grant and permit schedules for a given authority on a single printout. Data entry procedures are being developed in conjunction with Regional guidance on the definitions of the common data elements. A description of these common data elements (which all system users must maintain) is attached as Appendix B. Appendix C is a description of the cross-reference index.

Both GICS and PCS have established data requirements relating to data quality, timeliness, and amount of information. These can

be found in the GICS Program Management guidance in the Grants program and the Enforcement Management System guidance (EMS) within the Enforcement program.

MMS will also require the use of the NEEDS cross-reference index system, which is maintained under contract. This file contains both grant and permit information that can be used to identify related records in GICS, NEEDS, and PCS. A basic link has already been accomplished and a report has been generated which shows an NPDES permit and all of its related grants. A report can also be prepared showing a grant and all of its related permits. The complete interface will link NPDES compliance schedule events with their related grant events. In addition to linking this information, MMS may also provide a consolidated retrieval package to allow easy access by States and Regions to computerized information contained in GICS and PCS.

**PRINCIPLE 2: Coordinated Information Flow.**

Because the number of programs and agencies involved in the implementation of MMS is large, the flow of information between the parties will be critical. Unless information flows smoothly and in a timely fashion, problems will develop. As an example, if a grantee has a ratchet schedule in the permit for Step 1, and is awarded a Step 2 grant which fixes the next milestone date in the

permit, this information must be sent to the permit program for entering into the tracking system. Procedures must be developed to facilitate information flow at all levels. They must include the following:

1. The agencies must identify what types of information they must exchange, exactly who is to receive this data, and when it must be available. In so doing, it is better to encourage more frequent contacts than to increase the amount of written communications and the layers of bureaucratic review.
2. The rationale used in each step of the review process must be written down and placed in the appropriate grant and enforcement files at both the Federal and State levels. Strict adherence to this doctrine, supplemented by procedures that require this, will go a long way to provide needed historical information for future use.
3. Special pieces of information that must be distributed to the grants and enforcement programs must be delineated so that these documents reach the appropriate parties and critical information in them is used accordingly. For example, there must be procedures for incorporating the results from compliance sampling inspections, compliance evaluation inspections, and Corps of Engineers inspection reports into the review process. The procedures should also delineate ways by which

the grants program can surface candidates for compliance evaluation inspections and compliance sampling inspections.

PRINCIPLE 3: Consistent permit and grant schedule requirements.

The NMPS contains detailed instructions for processing section 301(i)(1) extension requests under the Act and for developing enforceable permit compliance schedules based on the availability of grant funding. A summary of these procedures is attached as Appendix D. These schedules require municipalities to complete construction of Federally funded treatment projects. Using the NMPS as a reference, the Regions and the States, in the development of their written guidance, must develop procedures that delineate:

1. The process for determining whether a permittee will be eligible for a permit extension, will be issued an administrative order, or will be subject to referral for judicial action.
2. How construction grants and permits staff will coordinate the issuance of permits containing fixed dates (based on grant schedules) as compliance milestones.
3. How construction grants and enforcement staffs will coordinate to produce administrative orders containing grant-based compliance schedules.

4. How construction grants and enforcement staffs will coordinate activities when litigation is under development or underway.

PRINCIPLE 4: Consistent and periodic permit and grant compliance evaluations.

In conjunction with the development of an integrated database, a series of coordinated compliance review activities is one of the most critical MMS requirements the Regions and the States must address. Therefore, permit, grant, and enforcement programs should review their independent and related compliance review functions and develop written management procedures that incorporate the following elements as a minimum:

1. The specific criteria for determining those grantees that are not meeting grant conditions or objectives or that appear to be moving in a direction that will result in not meeting that grant condition. The key in these procedures is to insure that these grantees are surfaced early for review and action.
2. The specific guidelines for making technical evaluations. The priority for these reviews is the same as that established in principle number one on page eight.
3. The persons responsible for completing each phase of these evaluations and for making each decision as the case of apparent noncompliance moves through the review process.

4. The specific types of information and other materials necessary to be used in the next evaluation step described in principle number five on page sixteen.
5. The control procedures for the external and internal transmittal of appropriate information.
6. The control procedures for the documentation of the rationale when it is decided not to submit a grantee for formal review and further action. This historical information, useful for future reviews, must be maintained in the permanent file.
7. The time frames which control the flow of information and assure timely responses during each of the preceding steps.

PRINCIPLE 5: Coordinated initiation of regulatory responses to permit/grant violations.

In order to insure a coordinated regulatory response, the grants and enforcement programs at the State and Federal levels should include the following in their written management procedures:

1. The National Noncompliance Response Guidance, which was developed by a Federal/State task force and issued in the June 4, 1979 draft task force report package. It is also included with this guide as Appendix E. This guidance will be used to determine the appropriate level or scope of action for specific



types of violations. It is anticipated that circumstances in the Regions and States may suggest using an approach different from that in the response guide. However, in most instances, it is expected that both the Regions and the States will take actions in a manner consistent with the response guide. The Federal or State agency with the primary NPDES authority should take the lead in coordinating an enforcement response in accordance with the response guide. The regulatory action must reflect the concept that the burden of taking the necessary corrective action to achieve compliance rests with the permittee/grantee. The measure of effectiveness of the regulatory agency response is whether the permittee/grantee returns to compliance or was placed on a schedule which results in compliance by a certain date. If the regulatory action does not achieve these ends, the level of action should be elevated.

2. The person or position(s) responsible for initiating and completing each step in the enforcement response process and/or making the action decisions as the regulatory action moves through the appropriate channels for concurrence.
3. The time frames to control the flow of information so that the regulatory action can be taken in time to make it effective.
4. The administrative tracking system to monitor the progress of the Agency response (action) at any time during the enforcement

process. Developed procedures must clearly identify who is responsible for completing each phase of this process and who must make each decision as the regulatory action moves through the process. Standard procedures must be developed to channel information to the necessary decision points in order to secure concurrence or nonconcurrence (by grants and enforcement) with the regulatory action before it is issued as a final action. The procedures should limit the number of signature levels in the process while still maintaining needed communications. Additional procedures which need to be included in this system are those for case follow-up and close-out, status update, and the return of compliance information to the database.

PRINCIPLE 6: Coordinated review and action on permit and grant extension requests.

In order to avoid conflicts in handling construction grant extension requests and permit modification requests, written procedures must be developed and include the following as a minimum:

1. The specific criteria used to judge whether the permittee/grantee is coming into compliance as expeditiously as possible (a statutory requirement). The backdrop against which an extension request is reviewed must be the requirements of the statute and the regulations. The permittee/grantee must fully

comply with the law and all applicable regulations. The permittee/grantee must submit appropriate evidence (documentation) that this burden of proof is met.

2. The specific criteria used to determine "routine" cases that do not need a detailed or high level review for concurrence and signature. "Nonroutine" cases, of course, must be fully reviewed and then receive concurrence. The objective is to reduce paperwork and levels of signature while still maintaining accountability and communication.
3. The standard procedures for coordinating with other affected programs and agencies.
4. The time-frame controls for making a final determination and initiating the appropriate response. Points of responsibility/accountability must be clearly evident in the procedures.
5. The procedures to control information flow to insure that appropriate information is sent to all agencies and entered into the data base. This includes appropriate documentation of the decisions in the files.

PRINCIPLE 7: Internal management controls.

There is a need for all management levels in the various organizations to be able to understand and assess the effectiveness

of their program operations. In this way, top management can review progress and problems. Therefore, procedures must be developed to provide for feedback mechanisms which summarize actions so that management can assess the progress and direction of the program. This self-evaluation is to be based on time-frame controls and assigned responsibilities for each of the program elements. These management procedures must include the following:

1. A method of tracking information (using time controls) within the system so that it can be located at any given time.
2. The ability to evaluate specific activities in terms of their results and ultimately the ability to reconcile program accomplishments with National objectives.
3. The ability to correlate permit compliance status and grant status with the goals of the Act and the National Municipal Policy and Strategy.
4. The escalation process for resolving program differences in order to move forward in a timely manner. Where there are four programs (grants at the Federal and State level and enforcement at the Federal and State level) as heavily involved as in this process, there will be disagreements. Time frames should be an integral part of this escalation process.

PRINCIPLE 8: Public reporting on the status of municipal compliance

Within the enforcement program there exists a document for

reporting on the status of each noncomplying source. That document is the Quarterly Noncompliance Report (QNCR). The QNCR will continue to be the document which describes all instances of noncompliance in the municipal sector.

Detailed Regional guidance on the preparation of the QNCR has been made available to the Regions and NPDES States. Written MMS guidance must identify how such permit/grant compliance information will be coordinated between the appropriate offices at both the Federal and State levels. Here again, it must be stressed that the application of time-frame controls and designated points of responsibility are required subparts of MMS.

PRINCIPLE 9: Coordinated development and modification of the State Project Priority Lists (PPL).

All States have developed State construction grant priority systems. Current PPL management procedures and lists need to be reviewed to insure that:

1. Stability is provided by developing multi-year lists. Limit opportunities for changing a specific project's position on the list and insure continuity through Steps 1, 2, and 3.
2. Points are allocated to projects necessary to meet enforceable requirements of the Act or otherwise comply with water quality needs as stated in statutory and regulatory provisions.

3. Wherever possible, any changes in the system or list are avoided during the middle of the fiscal year.
4. Coordinating procedures are established so that the enforcement staff has the opportunity to participate in the development and review of PPLs.

PRINCIPLE 10: Coordinated use of all field inspection data in compliance evaluations.

This is another area where the Regions and the States must carefully integrate activities so that the compliance data resulting from field inspections enters the Regional/State information systems at the appropriate decision points. Written MMS guidance on the subject should include as a minimum:

1. The inspection requirements each program must support.
2. The criteria used to identify inspection candidates.
3. Procedures for the joint conduct of field inspections.
4. Data entry and transmission procedures for key inspection results.
5. The use of the National standard inspection forms (EPA 3560-3).

The Compliance and Grants Information Systems Work Group determined that the current Corps of Engineers (COE) inspection program for municipal construction could be readily integrated with

the Agency's Compliance Evaluation Inspection (CEI) program. This effort follows naturally from the earlier effort to integrate common data elements into one data-base. The Corps provides on-site presence on large construction projects and performs reviews of plans and specifications already approved by EPA. The COE maintains much wider coverage of these projects than EPA, and its data requirements far exceed those of the Agency's NPDES inspection requirements. Through the use of the guidance in Appendix F, the Regions and States can routinely obtain a great deal of necessary information on the status of uncompleted projects. This expanded compliance overview can be of great value in making compliance evaluations. Procedures need to be developed to integrate this COE service into Regional and State inspection programs.

## APPENDICES

- A. MMS Development Schedule
- B. Milestones for NPDES Permit Schedules
- C. PCS/GICS Cross-Reference Index
- D. Permit Development Procedures
  - ° 301(i)(1) Extensions
  - ° Preapplication and Prepublic Notice Conference
  - ° Public Participation
  - ° Grant Amendments and Permit Modifications
  - ° State Priority Systems
- E. Noncompliance Response Guide
  - ° Grants and Enforcement Interaction (chart)
  - ° Possible Responses to Municipal Noncompliance: Grant Management Actions
  - ° Enforcement Actions, State Actions, and General Sanctions
  - ° Response Guide
- F. Guidance on integrating COE inspections with NPDES inspections



## Appendix A

### MMS DEVELOPMENT SCHEDULE

<u>Activity</u>	<u>Milestone or Time Period</u>
Issuance of Final MMS Guidance Complete PCS/GICS Interface Capability	March 3, 1980
Hold Area-wide MMS Orientation Meetings	March - April 1980
Develop MMS (by Regions and States)	April 1 - June 30, 1980
Complete EPA/State Agreements	July 1 - September 30, 1980
Begin Operation of MMS	October 1, 1980
Shakedown Period for MMS Operation	October 1 - December 31, 1980
Begin HQs Evaluation of MMS Operation	January 1981

APPENDIX B  
MILESTONES FOR NPDES PERMIT SCHEDULES

The Construction Grants Program will have primary responsibility for the development of grant schedules for use in NPDES permits and construction grants awards. Fixed-date schedules are to be developed based on the availability of Federal funding and the project's scope and complexity. These schedules must also provide a reasonable time for Agency (State and Federal) review. A detailed discussion of the coordination between Grants and Permits is contained in the NMPS and in the draft NMPS Task Force Report package. All data and schedule dates are tracked at the State level. For delegated States this is no problem since the States are already responsible for data entry into GICS or PCS. When tracking a project in a non-delegated State, the Region and State should design their own system for tracking and entering data into these systems.

The Regions and States need to develop procedures to notify the NPDES authority promptly when items required by the NPDES permit schedule are received by the appropriate State or Regional Office of Construction Grants. The permittee/grantee is not to be required to report separately to the grants and permit compliance programs.

The following list of milestones, together with their definitions, are to be used in NPDES schedule development.

<u>Milestone</u>	<u>Definition</u>
1. Submit Step 1 Application to State	The date the complete application for a grant (and/or amendment to a construction grant) is received in the appropriate State office.
2. Submit Completed Facilities Plan	The date a facilities plan, which meets all the requirements for approval, is received in the appropriate State office.

<u>Milestone</u>	<u>Definition</u>
3. Submit Step 3 Application(s) to State	The date the application(s) for a grant (and/or amendment to a construction grant) is received in the appropriate State office.
4. Submit Complete Plans and Specifications	The date plans and specifications, which meet all the requirements for approval, are received in the appropriate State office.
5. Complete Construction	The date of project completion on the grant agreement (end date of "Project Period," item 8, EPA form 5700-20A).
6. Achieve Final Effluent Limits	Date on which the permittee is required to be in compliance with the final effluent limits specified in the permit.
7. Submit Construction Grant Project Progress Report	The date a bar chart, payment request, or other indication of the progress (% completion) of the Construction Grant project is received by the permitting authority.

<u>Milestone</u>	<u>Definition</u>
8. Submit Step 2/3 Application to State	The date the application for a grant (and/or amendment to a construction grant) is received in the appropriate State office.

Pretreatment Program

1. Submit Results of Industrial User Survey, Evaluation of Legal Authority, and Determination of Technical Information.	The date all three elements, Industrial User Survey, Evaluation of Legal Authority, and Determination of Technical Information, which meet all requirements for approval, are received in the appropriate State office.
2. Submit Evaluation of Financial Programs and Revenue Sources, Design of Monitoring Program, List of Required Monitoring Equipment and Housing Needs, and Specific POTW Effluent Limitations for Prohibited Pollutants.	The date all four elements, Evaluation of Financial Programs and Revenue Sources, Design of Monitoring Program, List of Required Monitoring Equipment and Housing Needs, and Specific POTW Effluent Limitations for Prohibited Pollutants, which meet all requirements for approval, are received in the appropriate State office.

Pretreatment Programs (cont.)

Definitions

3. Submit Request for Pre-treatment Program Approval.

Date of receipt by approval authority (permitting authority) for pretreatment program approval and removal of credit approval, if desired.

## Appendix C

### PCS/GICS CROSS-REFERENCE INDEX

#### I. TITLE

Data Standards for Data Interchange of Related Construction Grants and Permits Information.

#### II. PURPOSE:

To provide ADP data file standards for EPA organizational elements utilizing, generating, or maintaining data element links in municipal water related data.

#### III. SCOPE:

These standards apply to all ADP systems which link elements of existing Permits (PCS), Grants (GICS), NEEDS, and other related files.

#### IV. TYPE OF LINKAGE:

Each data file which provides linkages to municipal water related files will provide a separate ADP file for the purpose. This file will be compatible with the text editing system in use on the EPA computer (currently WYLBUR). Each entry in the data file will contain a logical record. Each logical record will contain space for one or more of the identifiers of the ADP files to be referenced.

As a minimum, each linking file will link identifiers from the NEEDS, GICS, and PCS files.

#### V. LEVEL OF LINKAGE (See Figure 1):

As a minimum to satisfy national data reporting requirements, each linking file will provide a linkage level as defined below:

For Permits - linkage to be at the permit number level.

For Grants - linkage to be at the sequence number level.

For NEEDS - linkage to be at the Facility number level.

Linkages may be provided at levels more detailed than specified above at the discretion of file developers (see figure 1).

The current national cross-reference index file (XREF) provides the national minimum linkage level, minus the extension of the linkage on the grants side beyond the basic grant number. Sequence numbers (projects) are not yet included.

In addition, complex grant/needs/permits situations in large or multiple authorities may not be complete or accurate in the XREF. Regional personnel are to use the XREF as a starting point, since much work has already been done. The XREF is to be corrected and enhanced by regional staff as necessary to be completely accurate.

## VI. DEFINITION OF NATIONAL MINIMUM DATA ELEMENTS:

1. Grant Number - The grant identification number to be used in linking files will be eight (8) digits in length and composed of two (2) sections.

(a) Serial Number - Six (6) digits in length assigned to identify each preapplication, prospective project, unsolicited contract proposal, application, and awarded grants. This serial number is composed of two (2) sections:

(1) a two (2) digit FIPS-5 numeric State code, immediately followed by:

(2) a four (4) digit numeric grant serial number.

(b) Sequence Number - Two (2) numeric digits in length which identifies sequentially the specific project(s) - the original (new) and subsequent continuations - within a particular grant.

2. Permit Number - NPDES number assigned by the permitting authority. It uniquely identifies a permittee. The number is nine (9) digits long and is composed of two sections. The first section is two (2) digits in length and represents the FIPS-5 alphabetic State code designation, i.e. Georgia = GA, North Carolina = NC, etc. The second section is seven (7) digits in length and represents a numeric computerized permit number within a State.

3. Needs Number - State/authority/facility number as defined in the Needs Survey. It uniquely defines a municipal wastewater facility. The number is nine (9) digits in length, defined as follows:

positions 1-2 - FIPS-5 State numeric code.

positions 3-6 - Municipal authority identifier.  
This four digit code uniquely identifies a municipal authority within the State.

positions 7-9 - Facility identifier - This three digit numeric code uniquely identifies each facility under the control of an authority.

By convention, facility number "001" also identifies the administrative headquarters of the municipal authority.

## VII. OTHER DATA ELEMENTS:

There have been other data elements defined by the GICS/PCS Interface Task Force. These elements are not required for linking the ADP files at the national minimum level, and are therefore not required as a national minimum. However, some of these are required for linkages beyond the national minimum level.

When linkages beyond the national minimum are implemented, the following definitions shall be required.

### 1. Grants

(a) Step - Step represents the specific type of project undertaken as part of a wastewater treatment construction grant. The field is one (1) numeric digit in length and coded in the following manner:

- 0 - Construction Management Assistance Grant
- 1 - Project for Facilities Plans and Studies
- 2 - Project for Preparing of Construction Drawings and Specifications
- 3 - Project for Building and Erection of a Treatment Works
- 4 - Project for Design and Construction (step 2) and Construction (step 3) of a Treatment Works

(b) Amendment Designator - One (1) numeric digit in length which identifies each augmentation, revision, increase, decrease, or other significant proposed revision to a funded project.

### 2. Permits

a. Pipe Number (Schedule) - A two (2) numeric digit identifier which designates a discharge compliance schedule as found in PCS.

## VIII. Access to the National XREF

Regional staff can gain access to the national XREF through Regional WYLBUR files on COMNET. All these files are located on page NEED78.



The file names are:

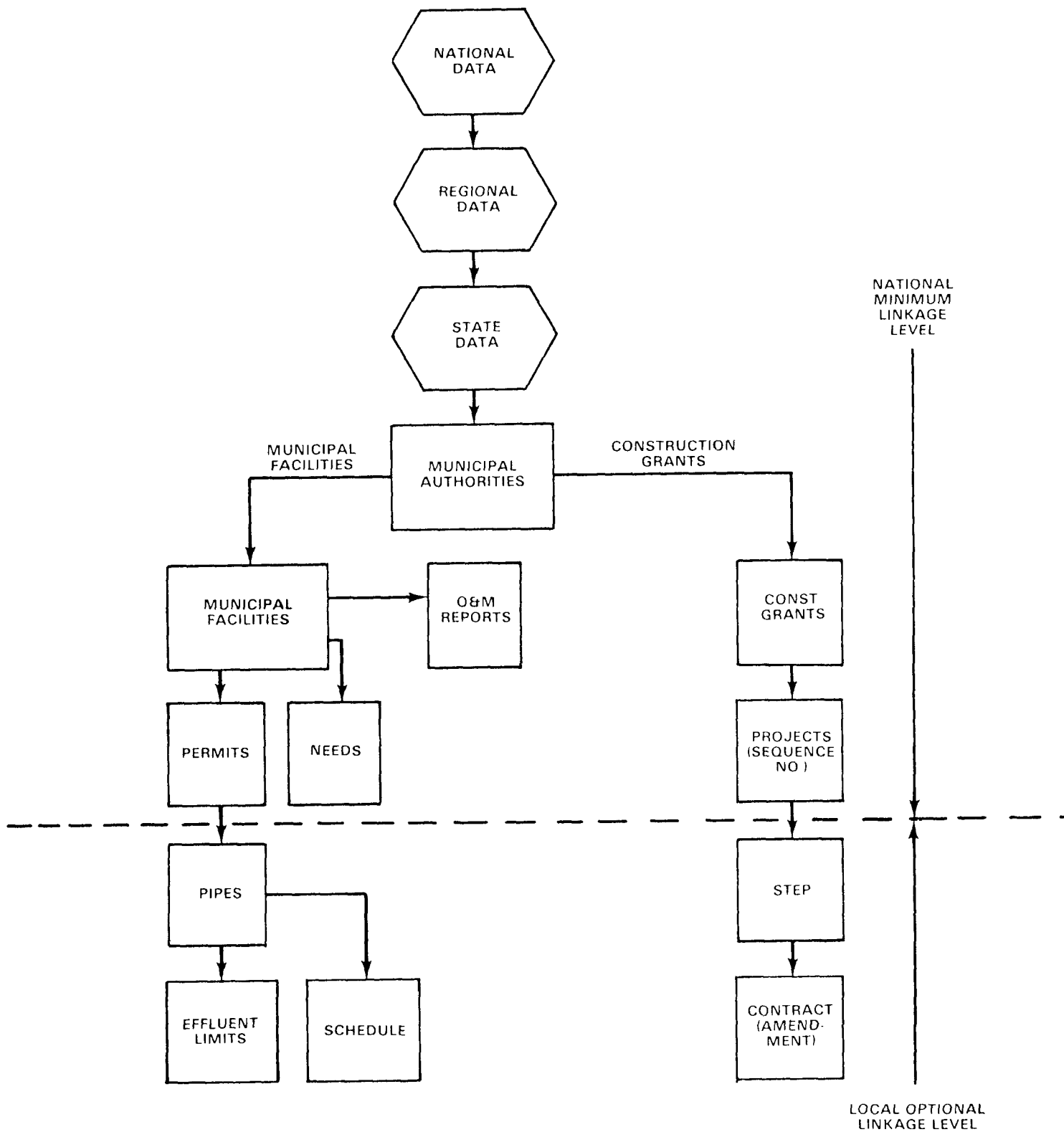
\$CN.EPAHAH.NEED.REG1X  
\$CN.EPAHAH.NEED.REG2X  
\$CN.EPAHAH.NEED.REG3X  
\$CN.EPAHAH.NEED.REG4X  
\$CN.EPAHAH.NEED.REG5X  
\$CN.EPAHAH.NEED.REG6X  
\$CN.EPAHAH.NEED.REG7X  
\$CN.EPAHAH.NEED.REG8X  
\$CN.EPAHAH.NEED.REG9X  
\$CN.EPAHAH.NEED.REG10X

The format for each of these data sets can be found in WYLBUR data set.

\$CH.EPAHAH.NEED.NEW.XREF.RECORD

FIGURE 1

# LEVELS OF LINKAGES FOR ADP FILES MUNICIPAL WASTEWATER DATA



## Appendix D

### PERMIT DEVELOPMENT PROCEDURES

The general approach to permit issuance for approved 301(i)(1) extensions is described in the NMPS. A more complete discussion of what a permit writer should do is provided below.

1. Review Application for a 301(i)(1) Extension
  - (a) Check the permit for completeness of information e.g., grant status, pre-treatment, effluent limitations, etc.
  - (b) Assemble information or initiate an information exchange between the different program offices. This puts everyone on notice that a permit is ready to be processed and that the necessary information from other offices should be forwarded.
2. Develop Terms and Conditions to be Specified in the Permit
  - (a) Effluent limitations are provided from the appropriate office in charge of their development. This predevelopment process may vary within Regions and States due to relationships between program offices. The limitations should already have been subject to prior review and acceptance. The source and nature of the data relied upon in developing the limitations (e.g. approved WLA, 303(e) basin plans, approved 208 plans, etc.) should be available to the permit writer to include in the "fact sheet" or Statement of Basis.
  - (b) Monitoring Requirements.
  - (c) Schedules of Compliance will tentatively be the dates specified or estimated from the grants process.
  - (d) Reporting Requirements.
  - (e) Pretreatment Requirements.
  - (f) Special Conditions.

### PREAPPLICATION AND PREPUBLIC NOTICE CONFERENCE

The construction grant regulations require, where appropriate, a conference to be held with the grant applicant before application

for the grant is made (40 CFR 35.902.2). The NPDES permit regulations do not require a similar meeting with the permittee before the draft permit is put on public notice, but many Regions and States hold some type of meeting. Since the grantee and the permittee are usually the same entity, grant-related questions could come up in the preapplication conference. Even if such questions do not come up, the grantee (and grants staff) should be aware of the grantee's status as a permittee and vice versa. Therefore, grants staff should be generally familiar with the permit requirements, compliance status, pretreatment requirements, and evidentiary hearing status, etc. and should inform the grantee of the relationship between the present grant application and the existing (or expired) permit. The converse should be true in any prepublic notice conference held with the permittees. Whenever conferences are being held, each program should notify the other program, as well as the grantee or permittee when they are not the same entity, so that they can choose to attend or not. The Regions and States should develop a list of named facilities, types of issues, or other considerations and circumstances, (e.g. requests for permit modification, locally sensitive grant awards, etc.), where joint meetings with the permittee/grantee should be required.

#### PUBLIC PARTICIPATION

Under the new NPDES regulations, a public notice is issued regarding both the proposed issuance, modification, or denial of a permit and the proposed permit conditions (40 CFR 124.41). All public notices contain a "fact sheet" or "statement of basis" which explains in detail how and why the permitting authority arrived at specific permit conditions (40 CFR 124.33 and 124.34). The public has 30 days to comment in writing and to request a public hearing on the draft permit (40 CFR 124.42). Finally, interested parties can request an administrative hearing on the Regional Administrator's decision to issue a permit (40 CFR 35.915 (a)) and before submission of its annual Project Priority List (or revisions published June 7, 1979 thereto) (40 CFR 35.915(d) and (f)). The Regional Administrator must establish a procedure for providing public notice and hearings on any proposed removal by EPA of a specific project on a State Project Priority List (40 CFR 35.915(g)). Finally, a public hearing must be held before the adoption of a facility plan (40 CFR 917-5(b)).

When the draft permit is put on public notice, there should be a statement indicating that the permit terms and conditions were developed in conjunction with the construction grant process. The statement can be very general, as in the preceeding sentence, or it can be very specific, citing the construction grant number, etc. The fact sheet (or statement of basis) which explains the basis of the permit, should go into greater detail as to the underlying construction grant process and should reference the appropriate grant numbers and any joint meeting held with the grantee/permittee.

Both programs should consider using a joint mailing list so that all interested parties will receive complete information on a facility, i.e., permit and grant information.

The Regions and States should develop procedures for holding joint public meetings and hearings, including the identification of those situations where joint public meetings and hearings are required and how a record of joint public comments will be maintained.

When an evidentiary hearing is approved on grant-related issues (e.g. schedules, effluent limitations, and pretreatment), the Regions (and States if similar administrative procedures are in effect) should develop a system to determine which grant awards should be deferred until the related permit conditions at issue are resolved. Procedures should also be developed which describe how any existing grants will be amended to incorporate necessary changes reflecting the resolution or settlement of the evidentiary hearing request. These procedures should also cover the reverse situation where a grant which relates to an issued or pending permit is appealed under 40 CFR 30.1100 et seq.

#### RELATIONSHIP BETWEEN GRANT AMENDMENTS AND PERMIT MODIFICATIONS

Under the new NPDES regulations, permittees can request a modification of the terms and conditions of their permit (40 CFR 124.31). The NPDES regulations do not require the Grants Office to be notified of the modification request or the nature of the subsequently modified permit terms or conditions. The procedure for permit modification is the same as the procedure for permit issuance with the exception that a modification request to change an interim compliance date 120 days or less is not subject to public notice or an opportunity for a hearing.

Under the construction grant regulations, grantees must notify their Project Officer of any events which may require a grant amendment, including circumstances which result in an acceleration or deceleration in the time for performance of the project (40 CFR 30.900(b)(4)). The regulations do not require the Permits Office to be notified of such amendment requests. Grantees must also agree to initiate and complete each project Step, including the initiation of all significant elements of Step 3, within 12 months of the grant award, otherwise the grant may be annulled or terminated (40 CFR 35.935-(a) and (c)). The grantee can request an extension of the time for initiation of Step 3, if, among other things, the grantee notifies the NPDES permit authority of the request (40 CFR 35.935-9(c)(2)). The regulations further state that any extension or modification of a date in a construction grant does not modify a compliance date in an NPDES permit and that the grantee must request a permit modification (40 CFR 935-9(b)).

Whenever one office receives a request for an amendment or modification which relates to the terms and conditions of either the permit or grant, a system must be developed to assure that permit and grant modifications are coordinated, otherwise the facility could end up having two inconsistent documents from two offices.

STATE PRIORITY SYSTEMS

Although the Water Programs Office plays a significant role in the development of State Priority Systems and Lists, Enforcement, Permits and Grants programs must coordinate their efforts in reviewing State priority systems and project priority lists. New Section 216 gives the States the sole authority to determine priority among categories of projects. However, projects that the Regional Administrator determines do not meet the enforceable requirements of the Act (except as provided by 40 CFR §35.915(g)(2)) may be removed from the project priority list, after a public hearing, and replaced with projects which meet the enforceable requirements.

Enforcement should determine: 1) which POTWs are unfunded 301(i)(1) applicants and are also under existing or pending enforcement actions for significant water quality violations or violations which cause significant public health problems and 2) which POTWs are funded but cannot complete construction by 1983 and are also under enforcement actions. To aid in this determination, staff should refer to the discussion of categories of POTW compliance in the NMPS. If it is determined that the PPL contains projects that 1) do not meet the enforceable requirements of the Act and 2) are ranked higher than the two types of projects described above, a detailed review of the State priority system should be made to identify 1) the factors in that system which resulted in these projects appearing on the list and 2) what changes might be made to the system to elevate significant polluters identified through compliance reviews. This information should then be transmitted to the State with the request that they modify their priority system. The State response to that request could serve as the basis for approval (or disapproval) of the State priority system and any pending 301(i)(1) extension requests. All communications with the States on priority systems must be through a single Regional program office given the lead responsibility for reviewing State priority systems.

The Agency may request a State to reevaluate a POTW's priority ranking at any time during the year. Information from the NEEDS Survey, approved facilities plans, etc., could serve as the basis upon which project needs are identified. Projects that will meet permit requirements (enforceable requirements) must be given preference over the construction of the other projects. Projects that generally would not be considered necessary to meet the enforceable requirements of the Act are those which provide solely for growth or excessive reserve capacity. An unfunded, significant NPDES permit violator (as determined in the previous section) could be referred to the State for reevaluation of priority ranking or for possible funding from the Step 1 and Step 2 reserve. Any request for reevaluation must be coordinated among the Enforcement, Permits, and Construction Grants programs. It is expected that priority reevaluation requests will be the exception rather than the rule. If the State increases the priority rating or agrees to

fund from the reserve, the NPDES authority would issue a letter informing the POTW of its eligibility for a construction grant and soliciting a grant application by a specified date. Failure to comply with such an action could be grounds for further enforcement action.

Regulations governing the State priority system and project priority list were promulgated at 40 CFR 35.915. Additional guidance is contained in Program Requirements Memorandum #78-13 issued June 29, 1978.

## Appendix E

### NONCOMPLIANCE RESPONSE GUIDE

This is a guide for Construction Grant and Enforcement officials in the exercise of their enforcement discretion. It serves three main purposes. First, it establishes enforcement responses that are appropriate, both in terms of their severity and the availability of Agency resources for different types of permit or grant violations. Secondly, given the resource constraints in the various Grants and Enforcement units, it assures a relatively uniform application of enforcement responses to comparable levels and types of violations around the country. Finally, it acts as a standard against which any MMS program can be evaluated.

It should be emphasized that this guide is to be used when considering the most appropriate response to a permit or grant violation. Thus, the suggested responses or alternatives may not be the only ones appropriate in achieving compliance. The guide should not be woodenly applied in any particular case. Each violation of an NPDES permit or grant schedule is a violation of the Federal Water Pollution Control Act for which the full array of enforcement responses provided in the Act is available. Determining the most appropriate response (or set of responses) requires consideration of 1) the severity of violation in terms of the degree of variance from the permit/grant condition, 2) the impact on the environment and the integrity of the NPDES program, 3) the enforcement history of the permittee in terms of past violations and good faith, 4) the impact on other dischargers, 5) the availability of enforcement resources within the enforcement unit, the prosecutorial branch of government, and the judiciary, 6) the importance of the violation in comparison with other violations that must be dealt with by limited resources, and 7) considerations of fairness and equity.

In any particular case these factors may lead to an enforcement response different from that suggested in the guide. In most cases, it is anticipated that responses to violations will be made within the framework of responses outlined in the guide.

The following table displays most of the standard responses which may be made to noncompliance with construction grant and/or NPDES permit requirements. Some of the responses have very broad applications. The table gives users an idea of the scope or range of options which may be considered when responding to permit or grant violations. Since there is to be no unilateral response (on the part of only one program) to a grant-related permit violation, the following examples serve to indicate the flexibility that may



be desirable in bringing a permittee back into compliance. Any sequence of grant responses or enforcement actions should not deviate from the levels outlined in Table 2 such that the response is not appropriate to the severity of the violation. For example, "documented phone calls" or "letters" (B1, 2) may be used to gather information or to alert a permittee in the early stages of almost any type of violation or apparent violation. Other responses have a much more limited application. For example, to "withhold up to 10% of grant payment" (A4) would be effective only near the completion of a grant project in Step 1, 2, or 3, and would be most effective at the time of close-out of a Step 3 grant. Similarly, "sewer bans/restrictions" (B5(b), C10) would be most effective where a community is undergoing significant growth and where the violation is so clear and serious as to offset the political outcry certain to be triggered by imposition of a ban or restriction.

In general, the responses escalate in impact as one moves down the list within each category, i.e. A7 ("stop payment") is much more serious a grant management action than A2 ("impose grant conditions"). Likewise, B4 ("Show Cause hearing") is much more serious an enforcement action than B1 ("documented phone call").

However, responses ranked close to one another within a given category may in some cases differ more with respect to the circumstances in which they are usable than with respect to the overall impact. For example, A3 ("withdraw authorization to advertise for bids") would be effective where a grantee was delaying initiation of facility construction to press ahead with sewer construction to accommodate new development, while A4 ("withhold up to 10%") would be most effective near closeout of a Step 3 grant. Neither is more serious than the other in terms of impact.

## SAMPLE RESPONSES TO MUNICIPAL NONCOMPLIANCE

A. Grant Management Actions (EPA/State)

1. Deny/defer award
2. Improve grant conditions (to assure "catch-up")
3. Withdraw authority to advertise for bids
4. Withhold up to 10% of grant payment
5. Disallow costs related to noncompliance
6. Suspend work (conditional, unconditional)
7. Stop payment
8. Terminate grant
9. Recover funds
10. Annul grant (partial, total)
11. Suspend grant eligibility

B. Enforcement Actions (EPA/State)

1. Make documented phone call
2. Send letter:
  - a. informal inquiry
  - b. instructional
  - c. Section 308
  - d. warning, "no action"
  - e. warning, time-controlled
  - f. "Show Cause"
3. Issue NOV to State or 309 Administrative Order
4. Hold "Show Cause" hearing
5. Refer to Justice, possibly request:
  - a. court-appointed master
  - b. 402(h) connection ban/restriction
  - c. adjustment of grantee on project priority list

C. State Actions

1. Decertify plant operator (temporarily/permanently)
2. File a complaint vs. engineer's license
3. Establish prequalification procedures for consulting engineers
4. Publish list of "eligible" consulting engineers, contractors
5. Publish list of plants with design problems and the responsible consulting engineers
6. Withhold approval of trust report required for funding of local share
7. Hold "Show Cause" hearings
8. Impose administrative fines
9. Take over operation of plant and bill the community
10. Sewer bans/restrictions
11. Issue State order
12. Refer to State Attorney General

D. General Sanctions (EPA)

1. Withhold approval of Corps of Engineers Section 404 (dredging) permits
2. Deny certificate of adequacy for actions by other Federal agencies

NATIONAL ENFORCEMENT RESPONSE GUIDANCE - ALL MAJOR PERMITTEES

REPORTING VIOLATIONS

<u>TYPE VIOLATION</u>	<u>CIRCUMSTANCES</u>	<u>BASIC APPROACH</u>
1. Failure to report.	Routine permit requirement. Isolated instance. Also, any special, one-time report.	Industrial: Phone call follow-up. Request immediate submittal by specified date. Municipal: Contact Grants. Initiate phone follow-up.
2. Failure to report.	Failure to respond to initial call by submitting report or refusing to acknowledge requirement.	Industrial: Issue notice (letter) of noncompliance (NNC). <sup>1</sup> Municipal: Contact Grants. If no legitimate delays, issue NNC. Otherwise, set new deadline.
3. Failure to report.	Failure to respond to NNC or repeated attempts to contact by phone. Documented lack of cooperation.	Industrial: Proceed with AO. <sup>2</sup> Continue to document case. Municipal: Contact Grants. Take Grant Management actions as appropriate. Document case.
4. Failure to report.	Long-term disregard of requirements, violation of AO, documented lack of cooperation, and coincident effluent or schedule violations.	Industrial: Proceed with referral. Continue to contact and document case. Municipal: Coordinate with Grants. Take Grant Management actions. If ineffective, escalate and/or initiate referral.
5. Failure to report.	Failed to report effluent violation(s) within 5 days of occurrence. Not fully aware of problems.	Industrial: Phone follow-up to request immediate submittal. Issue NNC. Municipal: Contact Grants. Initiate phone follow-up. Issue NNC.
6. Failure to report.	Knowingly failed to submit report within 5 days of effluent violation(s).	Industrial: Issue NNC. Cite legal liability for continued reporting violations. If violation continues, proceed as in 3 above. Municipal: Contact Grants. Same as industrial.
7. Failure to report.	Failure to report effluent violation(s) within 5 days of occurrence and serious environmental damage takes place or public health endangered.	Industrial: Proceed with AO or referral depending on impact of violation and 'intent' to avoid responsibility. Municipal: Contact Grants. Take Grant Management actions. If ineffective, escalate as in industrial.
8. Reporting False information.	Permittee satisfactorily explains how error made.	Industrial: Issue NNC. Cite severe legal liability for false reporting. Municipal: Contact Grants. Issue NNC citing severity of violation.
9. Reporting false information.	Permittee's culpability unmistakable. 'Intent' can be established.	Industrial: Proceed with criminal referral. Municipal: Proceed with criminal referral.

1 A NNC should cite the facts about the violation (including dates), identify the permit requirement(s) violated, refer to the legal liability which may be incurred, and require an explanation (by date certain), not only of the incident, but also of the steps taken to return to compliance.

2 This guidance does not attempt to draw the line between 'minor' or 'insignificant' unreported data and that information which is critical in making a compliance determination or enforcement decision. All responses should encourage a change in reporting behavior.

GRANT/COMPLIANCE SCHEDULE EVENTS

<u>VIOLATION</u>	<u>CIRCUMSTANCES</u>	<u>BASIC APPROACH</u>
1. Failure to meet interim requirement.	Will not result in violation of final requirement or other interim dates.	Industrial: Phone follow-up. Secure date by which event should occur. If appropriate, issue NNC. Municipal: Same as above. Identify Grant management actions which may be taken.
2. Failure to meet interim requirement.	Will result in violation of other interim or final dates. Legitimate delays. Acting in good faith.	Industrial: Issue NNC. Follow-up to secure commitment to compliance. Set new deadlines. Track closely. Municipal: Same as industrial; identify Grant management actions which may be taken.
3. Failure to meet interim requirement.	Will result in violation of other interim or final dates. No legitimate delays. Not acknowledging permit responsibilities.	Industrial: Proceed with AO. Issue NNC. Document case. Municipal: Issue NNC. Disallow costs associated with noncompliance.
4. Failure to meet final requirement.	Compliance likely within 90 days. Demonstrated commitment to permit responsibilities.	Industrial: Issue NNC. Monitor closely to verify status. Municipal: Same as industrial.
5. Failure to meet final requirement.	Delay for legitimate reason: strike, act of God, economy.	Industrial: Issue NNC. Secure commitment to complete requirement. Municipal: Same as industrial.
6. Failure to meet final requirement.	90 days or more overdue. No legitimate delays. Not acknowledging permit responsibilities. Failure to respond to Agency communications.	Industrial: Issue NNC. Proceed with AO. Document case. Municipal: Issue NNC. Withhold up to 10% of grant; recover funds; suspend eligibility for other projects; terminate or annul grant.
7. Failure to meet final requirement.	Same as above and failure to respond to NNC or violation of AO. Requirement is a major step, resulting in a serious environmental or public health situation.	Industrial: Proceed with referral. Document case. Municipal: Proceed with AO or take Grants Management actions as in 6 above. If actions ineffective, proceed with referral.
8. Failure to install monitoring equipment.	No legitimate delays.	Industrial: If NNC ineffective, proceed with AO to begin monitoring (with contractor support if necessary) immediately. Set new deadline. Municipal: Issue NNC. Take grant Management actions. If ineffective, proceed with AO.

# EFFLUENT VIOLATIONS

<u>VIOLATION</u>	<u>CIRCUMSTANCES</u>	<u>BASIC APPROACH</u>
1. Exceeding interim limits	Isolated discharge under permittee's control. No harmful effects.	Industrial: Telephone follow-up. If response unsatisfactory, issue NNC. Municipal: Same as Industrial.
2. Exceeding interim limits	Isolated discharge under permittee's control. Jeopardizes water quality.	Industrial: Issue NNC. If response inadequate, proceed with AO. Municipal: Contact Grants. Proceed as with Industrial.
3. Exceeding interim limits	Isolated discharge under permittee's control. Results in serious environmental damage or public health concerns.	Industrial: Issue NNC. If immediate steps not taken, proceed with AO or referral. Municipal: Contact Grants. Consider Grant Management actions and proceed as with Industrial.
4. Exceeding interim limits	Isolated discharge under permittee's control. Relatively minor infraction occurring routinely (more than once in four quarters).	Industrial: If second NNC ineffective, proceed with AO. Municipal: Contact Grants. Proceed as with Industrial.
5. Exceeding interim limits	Isolated discharge not under permittee control. No harmful effects.	Industrial: Issue NNC. Municipal: Same as Industrial.
6. Exceeding interim limits	Isolated discharge not under permittee control. Serious environmental damage or public health concerns.	Industrial: Same as 3 above. Municipal: Same as Industrial.
7. Exceeding final limits	Isolated instance. Compliance record generally good. No harmful effects.	Industrial: Telephone follow-up. If corrective steps taken, monitor closely. If not, issue NNC. Document instance. Municipal: Same as Industrial.
8. Exceeding interim or final limits.	Notification to Agency not made within five days as required by permit.	Industrial: Issue NNC. If repeated proceed with AO. Municipal: Contact Grants. Proceed as with Industrial.
9. Exceeding interim or final limits	Excursion within Technical Review Criteria but constitutes routine violation.	Industrial: Telephone follow-up. If response unsatisfactory, issue NNC. Municipal: Same as industrial.
10. Exceeding final limits	Violation continues after issuance of NNC. Demonstrated lack of commitment to permit responsibilities.	Industrial: Proceed with AO. If AO violated, initiate referral. Municipal: Contact Grants. Consider Grant Management actions and proceed with AO or referral.



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

OCT 3 1973

OFFICE OF ENFORCEMENT

MEMORANDUM

SUBJECT: Coordinating Corps of Engineer Construction Inspections  
with NPDES Compliance Inspections

FROM: Director, Enforcement Division (EN-338)  
Director, Municipal Construction Division (WH-547)

TO: Regional Water Division Directors  
Regional Enforcement Division Directors

Through a combined effort by the Office of Water Program Operations and the Office of Water Enforcement the National Municipal Policy and Strategy has been developed. The Compliance and Grants Information Systems Work Group, created in conjunction with this Policy and Strategy, has examined the possibility of coordinating NPDES Compliance Evaluation Inspections (CEIs) with municipal construction inspections performed by the Corps of Engineers (COE) under contract with the EPA Regional Water Divisions. Use of data currently being generated by the COE could be of great value to the NPDES compliance inspection program.

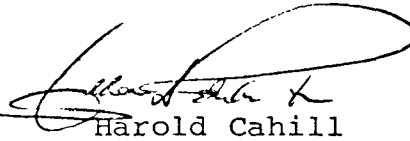
Based on discussions between our respective staffs, we have concluded that the current COE inspection program for municipal construction can readily be coordinated with the NPDES compliance inspection effort. Since one of the principal functions of a CEI is to verify new POTW construction progress, it appears that the COE inspections already satisfy many of the basic requirements of CEIs.

Because of the concern about resource limitations in the COE inspection program, the COE will not be performing any additional inspection activities at NPDES facilities. The COE is already generating the type, quantity and quality of data which will be necessary to satisfy the needs of the NPDES Compliance Program.

Please find attached an implementation plan which is to be used as guidance in developing Regional programs for integrating CEIs with COE Construction Inspections. This plan will become final three weeks after the date of this memorandum. Any comments received before that time will be considered. Comments may be directed to Gary Polvi, Compliance Branch (755-0994), or Albert Pelmoter, Program Policy Branch (426-8945).



J. Brian Molloy



Harold Cahill

Attachments

## INTEGRATION OF COMPLIANCE EVALUATION INSPECTIONS WITH THE CORPS OF ENGINEERS CONSTRUCTION INSPECTIONS

The Corps of Engineers (COE) is currently performing construction engineering inspections for EPA Regional Water Divisions on active Step 3 publicly owned treatment works (POTW) construction projects. Inspections are performed in accordance with the individual Interagency Agreements between each EPA Region and an individual COE District Division. Each Interagency Agreement specifies a different inspection form to be used by COE inspectors. The construction progress data already being generated by the COE for inclusion in these construction inspection report forms used on site is much greater than would normally be needed for a CEI. The EPA Region VI-COE form CG-10, for example, is sixteen pages and includes hundreds of questions on general facility information, grant administration, construction management-contract administration, quality control/ assurance, and facility completion information. All Regional COE inspection forms have been surveyed and found to contain sufficient data to address the NPDES compliance needs.

Having COE inspections augment NPDES municipal compliance monitoring efforts not only appears to be feasible but it also will prove to be more cost-effective for the Agency.

### OVERVIEW OF EXISTING CEI PROCEDURE

Current administrative procedures for selecting CEI targets and entering CEI data into the Permit Compliance System (PCS) vary from Region to Region, but the general procedure is as follows. First, the EPA Regional Enforcement Division compiles a semiannual or yearly list of CEI candidates. This list usually is updated quarterly with concurrence of each EPA Surveillance and Analysis (S&A) Division.

Either the EPA Regional or Field Office S&A group conducts the CEIs and completes the CEI form. Sometimes the forms undergo a quality control step in the EPA S&A Division before they are sent to the EPA Enforcement Division.

In the EPA Enforcement Division, if no violations are noted by the control person, the forms are given to the Regional PCS coordinator, who enters the data into PCS. If there are violations, the CEI results are subject to professional review, and enforcement options are exercised in accordance with normal EMS procedures.



COE-EPA OPERATIONAL PROCEDURES

To tightly coordinate CEIs with current COE construction inspection activities, traditional EPA internal procedures must be modified slightly. No modifications will be required in the EPA Regional Water Divisions. In the modified CEI/COE Inspection coordination procedure, the EPA Regional Enforcement Divisions first will coordinate as always with S&A to formulate CEI targets. Then Enforcement will supply the Water Division COE contact with a list of facilities for which inspection data is required. These target lists will include only those facilities which: (1) are currently being inspected by the COE for the Municipal Construction Program, and (2) are major dischargers with construction schedules in their NPDES permit.

After the COE completes their inspection report form and transmits the data to the EPA Regional Water Division contact, the contact, in turn, should provide to the Regional Enforcement Division the report forms from the facilities on the target list. The Enforcement Division will then assess the data and take appropriate follow-up action.

Each Regional Enforcement Division should first obtain a copy of the inspection form currently being used by the COE in their Region. After reviewing the inspection form, all questions relating to data which will be of use to Enforcement should be highlighted. For example, questions relating to construction progress, bypassing, lab evaluation, and operation and maintenance would be important in verifying compliance with Compliance Schedules and other pertinent sections of the NPDES permit. Because each Regional COE inspection program uses a different inspection form, details on exactly what information is relevant would best be determined by the individual Regional Enforcement Divisions. Once the relevant information from COE inspection reports has been formalized into standard format by each Regional Enforcement Division, the format should serve as the means for recording the data into NPDES files and PCS. The symbol "E" should be used to log compliance related COE inspections into PCS.

Because all EPA-COE Regional Interagency Agreements specify that the COE cooperates directly and works under contract for the EPA Regional Water Divisions, that channel of communication shall be maintained without interruption or interference. There shall be no contact between the EPA Regional Enforcement Divisions and the COE without the knowledge of the EPA Regional Water-COE coordinator.

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