

## Environmental Protection Agency

## § 403.18

from any portion of an Industrial User's treatment facility.

(2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) *Bypass not violating applicable Pretreatment Standards or Requirements.* An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c) *Notice.* (1) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.

(2) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) *Prohibition of bypass.* (1) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless;

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, reten-

tion of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The Industrial User submitted notices as required under paragraph (c) of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

[53 FR 40615, Oct. 17, 1988, as amended at 58 FR 18017, Apr. 7, 1993]

### § 403.18 Modification of POTW pretreatment programs.

(a) *General.* Either the Approval Authority or a POTW with an approved POTW Pretreatment Program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW Pretreatment Program that differs from the information in the POTW's submission, as approved under § 403.11.

(b) *Substantial modifications defined.* Substantial modifications include:

(1) Modifications that relax POTW legal authorities (as described in § 403.8(f)(1)), except for modifications that directly reflect a revision to this Part 403 or to 40 CFR chapter I, subchapter N, and are reported pursuant to paragraph (d) of this section;

(2) Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of this section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or

a subgroup of Industrial Users identified by the POTW) may discharge pursuant to limits developed under §403.5(c);

(3) Changes to the POTW's control mechanism, as described in §403.8(f)(1)(iii);

(4) A decrease in the frequency of self-monitoring or reporting required of industrial users;

(5) A decrease in the frequency of industrial user inspections or sampling by the POTW;

(6) Changes to the POTW's confidentiality procedures; and

(7) Other modifications designated as substantial modifications by the Approval Authority on the basis that the modification could have a significant impact on the operation of the POTW's Pretreatment Program; could result in an increase in pollutant loadings at the POTW; or could result in less stringent requirements being imposed on Industrial Users of the POTW.

(c) *Approval procedures for substantial modifications.* (1) The POTW shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description (see §403.9(b)), or such other documents the Approval Authority determines to be necessary under the circumstances.

(2) The Approval Authority shall approve or disapprove the modification based on the requirements of §403.8(f) and using the procedures in §403.11(b) through (f), except as provided in paragraphs (c) (3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority.

(3) The Approval Authority need not publish a notice of decision under §403.11(e) provided: The notice of request for approval under §403.11(b)(1) states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(4) Notices required by §403.11 may be performed by the POTW provided that the Approval Authority finds that the POTW notice otherwise satisfies the requirements of §403.11.

(d) *Approval procedures for non-substantial modifications.* (1) The POTW shall notify the Approval Authority of any non-substantial modification at least 45 days prior to implementation by the POTW, in a statement similar to that provided for in paragraph (c)(1) of this section.

(2) Within 45 days after the submission of the POTW's statement, the Approval Authority shall notify the POTW of its decision to approve or disapprove the non-substantial modification.

(3) If the Approval Authority does not notify the POTW within 45 days of its decision to approve or deny the modification, or to treat the modification as substantial under paragraph (b)(7) of this section, the POTW may implement the modification.

(e) *Incorporation in permit.* All modifications shall be incorporated into the POTW's NPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with 40 CFR 122.63(g).

[62 FR 38414, July 17, 1997]

#### APPENDIX A TO PART 403—PROGRAM GUIDANCE MEMORANDUM

U.S. Environmental Protection Agency

DECEMBER 16, 1975.

##### *Program Guidance Memorandum—61*

Subject: Grants for Treatment and Control of Combined Sewer Overflows and Stormwater Discharges.

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Regional Administrators, Regions I-X.

This memorandum summarizes the Agency's policy on the use of construction grants for treatment and control of combined sewer overflows and stormwater discharges during wet-weather conditions. The purpose is to assure that projects are funded only when careful planning has demonstrated they are cost-effective.

#### I. COMBINED SEWER OVERFLOWS

##### *A. Background*

The costs and benefits of control of various portions of pollution due to combined sewer overflows and by-passes vary greatly with the characteristics of the sewer and treatment system, the duration, intensity, frequency and areal extent of precipitation, the

type and extent of development in the service area, and the characteristics, uses and water quality standards of the receiving waters. Decisions on grants for control of combined sewer overflows, therefore, must be made on a case-by-case basis after detailed planning at the local level.

Where detailed planning has been completed, treatment or control of pollution from wet-weather overflows and bypasses may be given priority for construction grant funds only after provision has been made for secondary treatment of dry-weather flows in the area. The detailed planning requirements and criteria for project approval follow.

#### *B. Planning Requirements*

Construction grants may be approved for control of pollution from combined sewer overflows only if planning for the project was thoroughly analyzed for the 20 year planning period:

1. Alternative control techniques which might be utilized to attain various levels of pollution control (related to alternative beneficial uses, if appropriate), including at least initial consideration of all the alternatives described in the section on combined sewer and stormwater control in "Alternative Waste Management Techniques and Best Practicable Waste Treatment" (Section C of Chapter III of the information proposed for comment in March 1974).

2. The costs of achieving the various levels of pollution control by each of the techniques appearing to be the most feasible and cost-effective after the preliminary analysis.

3. The benefits to the receiving waters of a range of levels of pollution control during wet-weather conditions. This analysis will normally be conducted as part of State water quality management planning, 208 areawide management planning, or other State, regional or local planning effort.

4. The costs and benefits of addition of advanced waste treatment processes to dry-weather flows in the area.

#### *C. Criteria for Project Approval*

The final alternative selected shall meet the following criteria:

1. The analysis required above has demonstrated that the level of pollution control provided will be necessary to protect a beneficial use of the receiving water even after technology based standards required by Section 301 of Pub. L. 92-500 are achieved by industrial point sources and at least secondary treatment is achieved for dry-weather municipal flows in the area.

2. Provision has already been made for funding of secondary treatment of dry-weather flows in the area.

3. The pollution control technique proposed for combined sewer overflow is a more cost-effective means of protecting the bene-

ficial use of the receiving waters than other combined sewer pollution control techniques and the addition of treatment higher than secondary treatment for dry-weather municipal flows in the area.

4. The marginal costs are not substantial compared to marginal benefits.

Marginal costs and benefits for each alternative may be displayed graphically to assist with determining a project's acceptability under this criterion. Dollar costs should be compared with quantified pollution reduction and water quality improvements. A descriptive narrative should also be included analyzing monetary, social and environmental costs compared to benefits, particularly the significance of the beneficial uses to be protected by the project.

#### II. STORMWATER DISCHARGES

Approaches for reducing pollution from separate stormwater discharges are now in the early stages of development and evaluation. We anticipate, however, that in many cases the benefits obtained by construction of treatment works for this purpose will be small compared with the costs, and other techniques of control and prevention will be more cost-effective. The policy of the Agency is, therefore, that construction grants shall not be used for construction of treatment works to control pollution from separate discharges of stormwater except under unusual conditions where the project clearly has been demonstrated to meet the planning requirements and criteria described above for combined sewer overflows.

#### III. MULTI-PURPOSE PROJECTS

Projects with multiple purposes, such as flood control and recreation in addition to pollution control, may be eligible for an amount not to exceed the cost of the most cost-effective single purpose pollution abatement system. Normally the Separable Costs-Remaining Benefits (SCRB) method should be used to allocate costs between pollution control and other purposes, although in unusual cases another method may be appropriate. For such cost allocation, the cost of the least cost pollution abatement alternative may be used as a substitute measure of the benefits for that purpose. The method is described in "Proposed Practices for Economic Analysis of River Basin Projects," GPO, Washington, D.C., 1958, and "Efficiency in Government through Systems Analysis," by Roland N. McKean, John Wiley & Sons, Inc., 1958.

Enlargement of or otherwise adding to combined sewer conveyance systems is one means of reducing or eliminating flooding caused by wet-weather conditions. These additions may be designed so as to produce some benefits in terms of reduced discharge of pollutants to surrounding waterways. The

pollution control benefits of such flood control measures, however, are likely to be small compared with the costs, and the measures therefore would normally be ineligible for funding under the construction grants program.

All multi-purpose projects where less than 100% of the costs are eligible for construction grants under this policy shall contain a special grant condition precluding EPA funding of non-pollution control elements. This condition should, as a minimum, contain a provision similar to the following:

"The grantee explicitly acknowledges and agrees that costs are allowable only to the extent they are incurred for the water pollution control elements of this project."

Additional special conditions should be included as appropriate to assure that the grantee clearly understands which elements of the project are eligible for construction grants under Pub. L. 92-500.

APPENDIXES B-C TO PART 403  
[RESERVED]

APPENDIX D TO PART 403—SELECTED INDUSTRIAL SUBCATEGORIES CONSIDERED DILUTE FOR PURPOSES OF THE COMBINED WASTESTREAM FORMULA

The following industrial subcategories are considered to have dilute wastestreams for purposes of the combined wastestream formula. They either were or could have been excluded from categorical pretreatment standards pursuant to paragraph 8 of the Natural Resources Defense Council, Inc., et al. v. Costle Consent Decree for one or more of the following four reasons: (1) The pollutants of concern are not detectable in the effluent from the industrial user (paragraph 8(a)(iii)); (2) the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph 8(a)(iii)); (3) the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph 8(a)(iii)); or (4) the wastestream contains only pollutants which are compatible with the POTW (paragraph 8(b)(i)). In some instances, different rationales were given for exclusion under paragraph 8. However, EPA has reviewed these subcategories and has determined that exclusion could have occurred due to one of the four reasons listed above.

This list is complete as of October 9, 1986. It will be updated periodically for the convenience of the reader.

*Auto and Other Laundries* (40 CFR part 444)  
Carpet and Upholstery Cleaning  
Coin-Operated Laundries and Dry Cleaning  
Diaper Services  
Dry Cleaning Plants except Rug Cleaning  
Industrial Laundries

Laundry and Garment Services, Not Elsewhere Classified  
Linen Supply  
Power Laundries, Family and Commercial  
*Electrical and Electronic Components*<sup>1</sup> (40 CFR part 469)  
Capacitors (Fluid Fill)  
Carbon and Graphite Products  
Dry Transformers  
Ferrite Electronic Devices  
Fixed Capacitors  
Fluorescent Lamps  
Fuel Cells  
Incandescent Lamps  
Magnetic Coatings  
Mica Paper Dielectric  
Motors, Generators, Alternators  
Receiving and Transmitting Tubes  
Resistance Heaters  
Resistors  
Switchgear  
Transformer (Fluid Fill)  
*Metal Molding and Casting* (40 CFR part 464)  
Nickel Casting  
Tin Casting  
Titanium Casting  
*Gum and Wood Chemicals* (40 CFR part 454)  
Char and Charcoal Briquets  
*Inorganic Chemicals Manufacturing* (40 CFR part 415)  
Ammonium Chloride  
Ammonium Hydroxide  
Barium Carbonate  
Calcium Carbonate  
Carbon Dioxide  
Carbon Monoxide and Byproduct Hydrogen  
Hydrochloric Acid  
Hydrogen Peroxide (Organic Process)  
Nitric Acid  
Oxygen and Nitrogen  
Potassium Iodide  
Sodium Chloride (Brine Mining Process)  
Sodium Hydrosulfide  
Sodium Hydrosulfite  
Sodium Metal  
Sodium Silicate  
Sodium Thiosulfate  
Sulfur Dioxide  
Sulfuric Acid  
*Leather* (40 CFR part 425)  
Gloves  
Luggage  
*Paving and Roofing* (40 CFR part 443)  
Asphalt Concrete  
Asphalt Emulsion  
Linoleum  
Printed Asphalt Felt  
Roofing

<sup>1</sup>The Paragraph 8 exemption for the manufacture of products in the Electrical and Electronic Components Category is for operations not covered by Electroplating/Metal Finishing pretreatment regulations (40 CFR parts 413/433).

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- Pulp, Paper, and Paperboard, and Builders' Paper and Board Mills* (40 CFR parts 430 and 431)
  - Groundwood-Chemi-Mechanical
- Rubber Manufacturing* (40 CFR part 428)
  - Tire and Inner Tube Plants
  - Emulsion Crumb Rubber
  - Solution Crumb Rubber
  - Latex Rubber
  - Small-sized General Molded, Extruded and Fabricated Rubber Plants,<sup>2</sup>
  - Medium-sized General Molded, Extruded and Fabricated Rubber Plants<sup>2</sup>
  - Large-sized General Molded, Extruded and Fabricated Rubber Plants<sup>2</sup>
  - Wet Digestion Reclaimed Rubber
  - Pan, Dry Digestion, and Mechanical Reclaimed Rubber
  - Latex Dipped, Latex-Extruded, and Latex-Molded Rubber<sup>3</sup>
  - Latex Foam<sup>4</sup>
- Soap and Detergent Manufacturing* (40 CFR part 417)
  - Soap Manufacture by Batch Kettle
  - Fatty Acid Manufacture by Fat Splitting
  - Soap Manufacture by Fatty Acid Neutralization
  - Glycerine Concentration
  - Glycerine Distillation
  - Manufacture of Soap Flakes and Powders
  - Manufacture of Bar Soaps
  - Manufacture of Liquid Soaps
  - Manufacture of Spray Dried Detergents
  - Manufacture of Liquid Detergents
  - Manufacture of Dry Blended Detergents
  - Manufacture of Drum Dried Detergents
  - Manufacture of Detergent Bars and Cakes
- Textile Mills* (40 CFR part 410)
  - Apparel manufacturing
  - Cordage and Twine
  - Padding and Upholstery Filling
- Timber Products Processing* (40 CFR part 429)
  - Barking Process
  - Finishing Processes
  - Hardboard—Dry Process

[51 FR 36372, Oct. 9, 1986]

**APPENDIX E TO PART 403—SAMPLING PROCEDURES**

**I. COMPOSITE METHOD**

A. It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12

<sup>2</sup>Footnote: Except for production attributed to lead-sheathed hose manufacturing operations.

<sup>3</sup>Footnote: Except for production attributed to chromic acid form-cleaning operations.

<sup>4</sup>Footnote: Except for production that generates zinc as a pollutant in discharge.

aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

B. Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample is taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.

**II. GRAB METHOD**

If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

[49 FR 31225, Aug. 3, 1984]

**APPENDIX F [RESERVED]**

**APPENDIX G TO PART 403—POLLUTANTS ELIGIBLE FOR A REMOVAL CREDIT**

**I. REGULATED POLLUTANTS IN PART 503 ELIGIBLE FOR A REMOVAL CREDIT**

Pollutants	Use or disposal practice		
	LA	SD	I
Arsenic .....	X	X	X

**Pt. 403, App. G**

**40 CFR Ch. I (7-1-00 Edition)**

**I. REGULATED POLLUTANTS IN PART 503  
ELIGIBLE FOR A REMOVAL CREDIT—Continued**

Pollutants	Use or disposal practice		
	LA	SD	I
Beryllium .....			X
Cadmium .....	X		X
Chromium .....		X	X
Copper .....	X		
Lead .....	X		X
Mercury .....	X		X
Molybdenum .....	X		
Nickel .....	X	X	X
Selenium .....	X		
Zinc .....	X		
Total hydrocarbons ..			X <sup>1</sup>

Key:  
LA—land application.

SD—surface disposal site without a liner and leachate collection system.

I—firing of sewage sludge in a sewage sludge incinerator.  
<sup>1</sup>The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons in subpart E in 40 CFR Part 503 are met when sewage sludge is fired in a sewage sludge incinerator: Acrylonitrile, Aldrin/Dieldrin(total), Benzene, Benzidine, Benzo(a)pyrene, Bis(2-chloroethyl)ether, Bis(2-ethylhexyl)phthalate, Bromodichloromethane, Bromoethane, Bromoform, Carbon tetrachloride, Chlordane, Chloroform, Chloromethane, DDD,DDE,DDT, Dibromochloromethane, Dibutyl phthalate, 1,2-dichloroethane, 1,1-dichloroethylene, 2,4-dichlorophenol, 1,3-dichloropropene, Diethyl phthalate, 2,4-dinitrophenol, 1,2-diphenylhydrazine, Di-n-butyl phthalate, Endosulfan, Endrin, Ethylbenzene, Heptachlor, Heptachlor epoxide, Hexachlorobutadiene, Alpha-hexachlorocyclohexane, Beta-hexachlorocyclohexane, Hexachlorocyclopentadiene, Hexachloroethane, Hydrogen cyanide, Isophorone, Lindane, Methylene chloride, Nitrobenzene, N-Nitrosodimethylamine, N-Nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1,1,2,2-tetrachloroethane, Tetrachloroethylene, Toluene, Toxaphene, Trichloroethylene, 1,2,4-Trichlorobenzene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, and 2,4,6-Trichlorophenol.

**II. ADDITIONAL POLLUTANTS ELIGIBLE FOR A REMOVAL CREDIT**

[Milligrams per kilogram—dry weight basis]

Pollutant	Use or disposal practice			I
	LA	Surface disposal		
		Unlined <sup>1</sup>	Lined <sup>2</sup>	
Arsenic .....			<sup>3</sup> 100	
Aldrin/Dieldrin (Total) .....	2.7			
Benzene .....	<sup>3</sup> 16	140	3400	
Benzo(a)pyrene .....	15	<sup>3</sup> 100	<sup>3</sup> 100	
Bis(2-ethylhexyl)phthalate .....		<sup>3</sup> 100	<sup>3</sup> 100	
Cadmium .....		<sup>3</sup> 100	<sup>3</sup> 100	
Chlordane .....	86	<sup>3</sup> 100	<sup>3</sup> 100	
Chromium (total) .....	<sup>3</sup> 100		<sup>3</sup> 100	
Copper .....		<sup>3</sup> 46	100	1400
DDD, DDE, DDT (Total) .....	1.2	2000	2000	
2,4 Dichlorophenoxy-acetic acid .....		7	7	
Fluoride .....	730			
Heptachlor .....	7.4			
Hexachlorobenzene .....	29			
Hexachlorobutadiene .....	600			
Iron .....	<sup>3</sup> 78			
Lead .....		<sup>3</sup> 100	<sup>3</sup> 100	
Lindane .....	84	<sup>3</sup> 28	<sup>3</sup> 28	
Malathion .....		0.63	0.63	
Mercury .....		<sup>3</sup> 100	<sup>3</sup> 100	
Molybdenum .....		40	40	
Nickel .....			<sup>3</sup> 100	
N-Nitrosodimethylamine .....	2.1	0.088	0.088	
Pentachlorophenol .....	30			
Phenol .....		82	82	
Polychlorinated biphenyls .....	4.6	<50	<50	
Selenium .....		4.8	4.8	4.8
Toxaphene .....	10	<sup>3</sup> 26	<sup>3</sup> 26	
Trichloroethylene .....	<sup>3</sup> 10	9500	<sup>3</sup> 10	
Zinc .....		4500	4500	4500

<sup>1</sup> Active sewage sludge unit without a liner and leachate collection system.

<sup>2</sup> Active sewage sludge unit with a liner and leachate collection system.

<sup>3</sup> Value expressed in grams per kilogram—dry weight basis.

Key: LA—land application.

I—incineration.

[60 FR 54768, Oct. 25, 1995, as amended at 65 FR 42567, Aug. 4, 1999]