

Special or Narrative Conditions in NPDES Permits



Today's Speakers

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Special Conditions are Used in NPDES Permits to...

- Address unique situations
- Incorporate preventive requirements
- Incorporate compliance schedules
- Incorporate other NPDES programmatic requirements (e.g., pretreatment, sewage sludge)



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Categories of Special Conditions – All Facility Types

- Additional monitoring or special studies
- Best management practices (BMPs)/pollution prevention
- Compliance schedules



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Additional Monitoring/Special Studies

- Used to supplement effluent limitations and routine monitoring
- May be used to collect data for future limitation development
- Examples:
 - sediment samples
 - bioaccumulation studies
 - ambient monitoring
 - dilution studies
 - Toxicity Identification Evaluation (TIE)/ Toxicity Reduction Evaluation (TRE)



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Special Studies Example—TIE/TRE

- **A TIE/TRE is a site-specific special study designed to:**
 - identify the causative agents of whole effluent toxicity (WET)
 - isolate the sources of the toxicity
 - evaluate the effectiveness of toxicity control options
 - confirm the reduction in effluent toxicity after control measures are in place



Special Conditions-6

Requiring a TIE/TRE through Special Conditions

- A special condition could require initiation of a TIE/TRE when the results of WET tests exceed
 - WET limitations
 - WET “trigger values”
- TIE/TRE requirements supplement WET limitations or testing requirements
- TIE/TRE implementation might lead to information that supports future limit development (i.e., when specific toxicants are identified)



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Definition of Best Management Practices

Best management practices (BMPs) mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the U.S. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. [40 CFR 122.2]



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Authority for Best Management Practices 40 CFR 122.44(k)

- CWA section 304(e)
 - effluent limitations guidelines
- CWA section 402(p)
 - stormwater
- When numeric effluent limitations are infeasible
- When necessary to achieve effluent limitations and standards or to carry out the purposes of the CWA



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BMPs in NPDES Permits

- **Two methods for incorporating BMPs in a permit are:**
 - Site-specific BMPs
 - facility-specific
 - pollutant-specific
 - BMP Plan



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Site-Specific BMPs

- Most effectively used in conjunction with numeric effluent limitations in permits
- Qualitative – should generally indicate how or what, not how much



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Recommended Elements of a BMP Plan

- Name and location of facility
- Statement of BMP policy and objectives
- Review by plant manager
- BMP committee
- Risk identification and assessment
- Reporting of BMP incidents
- Materials compatibility
- Good housekeeping
- Preventive maintenance
- Inspections and records
- Security
- Employee training



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Compliance Schedules

■ 40 CFR 122.47

- Permit may, when appropriate, specify a schedule of compliance leading to compliance with CWA and regulations
- Technology-based limitations
 - compliance schedules generally not allowed because CWA compliance deadlines for existing sources have passed
- Water quality-based limitations
 - Star-Kist decision (1990)
 - Permit Review Guidance (2007)



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Compliance Schedule Considerations

- **StarKist Decision (April 16, 1990)**
 - must require immediate compliance with effluent limitations based on WQS adopted on or before 7/1/1977
 - may allow compliance schedules for limitations based on WQS adopted or modified after 7/1/1977 only if the state has clearly indicated in its WQS or implementing regulations that it intends to allow compliance schedules



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Compliance Schedule Considerations (continued)

- **EPA Permit Review Guidance (May 10, 2007)**
 - must demonstrate that the permittee cannot immediately comply with new limit
 - must justify and document “appropriateness”
 - must evaluate and justify “as soon as possible”
 - must include an enforceable sequence of events leading to compliance (interim milestones as needed)
 - must include an enforceable “final” effluent limitation and a date for achievement
 - a schedule solely to provide time to develop a TMDL or to conduct a UAA is not appropriate



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Special Conditions – Municipal Dischargers

- **Pretreatment Program Requirements**
- **Biosolids (Sewage Sludge) Requirements**
- **Combined Sewer Overflow Requirements**



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National Pretreatment Program

- **Major goal is controlling discharges in order to:**
 - prevent interference with POTW processes
 - prevent pass through of pollutants
 - protect sludge management options
- **Additional programmatic goals**
 - encourage recycling and reclamation
 - ensure POTW personnel health and safety



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Regulatory Requirements

General Pretreatment Regulations: 40 CFR Part 403

- **Elements:**
 - National Pretreatment Standards
 - requirements for POTW and state, territorial, or tribal programs
 - industrial and POTW reporting requirements
- **Effluent Limitations Guidelines and Standards (40 CFR Parts 405-471)**
 - including categorical pretreatment standards



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Pretreatment Program Development

- **Who is required to have a pretreatment program?**
 - POTWs > 5 MGD with dischargers subject to standards
 - POTWs \leq 5 MGD with past problems
 - unless state assumes total responsibility for program implementation [403.10(e)]



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NPDES Permits Drive the Pretreatment Program

- NPDES permit “special conditions” require the POTW to develop and implement a Pretreatment Program
- Permit terms and conditions provide specific program requirements
- Pretreatment conditions in the Permit are fully enforceable



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Permits for Municipal Sewage Sludge (Biosolids)

- Any section 402 permit issued to a POTW should contain requirements for sewage sludge use and/or disposal
- 40 CFR Part 503 requirements should be incorporated into a permit for:
 - incineration
 - land application
 - surface disposal



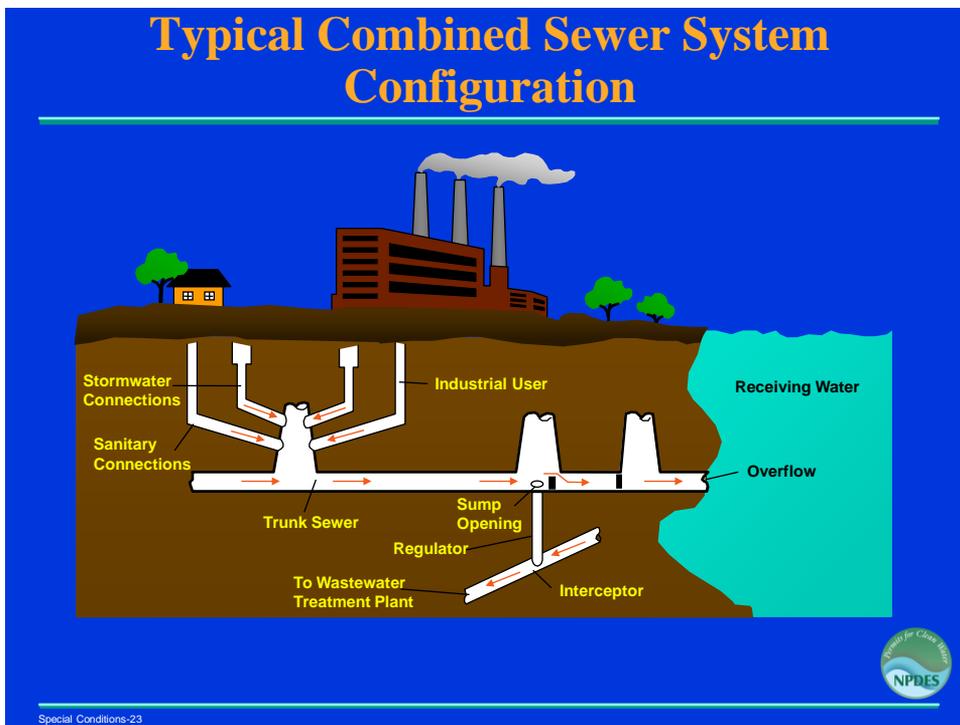
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Permits for Municipal Sewage Sludge (Biosolids) (continued)

- Other entities may be delegated responsibility to comply (40 CFR Part 503 standards and requirements may not all be placed in the POTW permit)
- Permits must contain:
 - general conditions
 - conditions specific to each use or disposal method



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Overview of CSO Control Policy Approach

Time	Years after Phase I Permit Issuance		
	0	5	10+
<i>NPDES Permit Requirements</i>	<i>Phase I</i>	<i>Phase II</i>	<i>Post Phase II</i>
A. Technology-Based	<ul style="list-style-type: none"> Nine minimum controls (NMC), at a minimum 	<ul style="list-style-type: none"> NMC, at a minimum 	<ul style="list-style-type: none"> NMC, at a minimum
B. Water Quality-Based	<ul style="list-style-type: none"> Narrative 	<ul style="list-style-type: none"> Narrative + performance-based standards 	<ul style="list-style-type: none"> Narrative + performance-based standards + numeric WQ-based effluent limits (as appropriate)
C. Monitoring	<ul style="list-style-type: none"> Characterization, monitoring, and modeling of CSS 	<ul style="list-style-type: none"> Monitoring to evaluate WQ impacts Monitoring to determine effectiveness of CSO controls 	<ul style="list-style-type: none"> Post-construction compliance monitoring
D. Reporting	<ul style="list-style-type: none"> Documentation of NMC implementation Interim long-term control plan (LTCP) deliverables 	<ul style="list-style-type: none"> Implementation of CSO controls 	<ul style="list-style-type: none"> Post-construction compliance monitoring reporting
E. Special Conditions	<ul style="list-style-type: none"> Prohibition of dry weather overflows (DWO) Development of LTCP 	<ul style="list-style-type: none"> Prohibition of DWO LTCP implementation schedule Reopener clause for WQS violations Sensitive area reassessment 	<ul style="list-style-type: none"> Prohibition of DWOs Reopener clause for WQS violations
	1994 - 1999	1999-2004	2004-2009

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Documentation

- **Document in the fact sheet or statement of basis:**
 - Appropriate statutory or regulatory citations for special conditions
 - Purpose and basis for requiring special studies or best management practices
 - Explanation of how any compliance schedule provisions are consistent with regulations, including demonstration that permittee cannot immediately comply and evaluation of “appropriateness” and “as soon as possible”



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Feedback and Other Presentations

Questions or comments?

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