

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PROTOCOL WORKING AGREEMENT
BETWEEN THE
REGIONAL ADMINISTRATOR REGION VII
U.S. ENVIRONMENTAL PROTECTION AGENCY
AND THE
DIRECTOR OF THE DIVISION OF ENVIRONMENTAL HEALTH
OF THE KANSAS STATE DEPARTMENT OF HEALTH

In accordance with the provisions of Section 402(b) of Public Law 92-500, the State of Kansas has requested State permit program approval and the authority to administer the National Pollutant Discharge Elimination System Program within the State of Kansas. This agreement is to provide a means of initiating and maintaining a viable program while transferring the responsibilities for the conduct of the different phases of the program from the Environmental Protection Agency to the State.

Rules and Regulations

The description and procedures outlined in Kansas State Department of Health's submittal, "Procedures of Participation in the National Pollutant Discharge Elimination System," does not contain the necessary detailed information and procedural points specified in 40 CFR 124. Many of these deficiencies involving procedures and administrative decisions are covered by this protocol working agreement. However, a number of the points in question are items more appropriately covered by State Rules and Regulations. Therefore, the State agrees to promulgate regulations fulfilling the requirements of 40 CFR 124 for Kansas operation of the National Pollutant Discharge Elimination System in time to be in effect by January 1, 1974, and fully recognizes that if such is not done, the EPA Administrator will have no choice but to withdraw approval of state administration of the NPDES program. Prior to adoption of these rules and regulations, the State of Kansas agrees to follow the applicable EPA procedures and regulations set forth in 40 CFR Parts 124 and 125 as if they were their own.

Federal Enforcement

As provided for in Section 402(i) of the Federal Water Pollution Control Act, the Administrator's approval of the Kansas NPDES permit program and the subsequent issuance of NPDES permits by the Director in no way precludes the Administrator from enforcing compliance with EPA guidelines and/or standards by exercising the enforcement authority provisions of the Act. This includes the execution of any effluent compliance monitoring necessary for carrying out these responsibilities.

Existing State Permits

The holding of a State of Kansas Permit for the discharge of sewage into the waters of the State issued prior to State administration of the NPDES program satisfies neither the filing nor the discharge limitations requirements of the NPDES program.

Federal Assistance to the State

The Environmental Protection Agency will be responsible for keeping the Director appraised of the meaning and content of Federal effluent guidelines, effluent standards, regulations, policy decisions, directives and any other factors which affect the NPDES program. In addition, general technical assistance in processing NPDES applications will be made available to the Director by the Regional Administrator. Assistance with compliance monitoring will also be available. To assist EPA in fulfilling the State's needs, it is suggested that the Director present in each year's State Program Plan a projection of the areas and extent of technical assistance required by the State. This might include, for example, types of chemical analysis the State is not equipped to perform, but for which there is a need in the compliance monitoring phase of the program. To aid the State in their Public Notice procedure, the Regional Administrator will provide the initial mailing list and address labels. The Regional Administrator will provide the State with a supply of all Federal NPDES application forms and effluent monitoring report forms.

Transmittal of Federal Data to the State

All relevant data and information compiled by the Regional Administrator, including but not limited to, (a) the Refuse Act applications and pertinent correspondence, (b) any NPDES applications and pertinent correspondence, and (c) any other information collected by the Regional Administrator which would be of assistance will be transmitted to the Director within 30 days of approval of the State program.

Transmittal of Data to the Regional Administrator

The Director shall submit to the Regional Administrator copies of all NPDES applications and any additional information requested from the applicant received after the State assumption of the NPDES program. Any request received from an applicant for confidential treatment of information contained in any NPDES form which the Director considers valid must be forwarded to the Regional Administrator for concurrence. Within 30 days the Regional Administrator will notify the Director of concurrence or non-concurrence, or specify a further period for consideration and final determination.

The Regional Administrator shall have 30 days after receipt of an NPDES application of less than 50,000 gallons on every day of the year to identify it as a major discharge. The Regional Administrator shall also have 30 days after receipt of an NPDES application to declare the application incomplete and identify that information required to complete the application. If the Regional Administrator so notifies the Director, the Director shall require the applicant for such discharge to submit additional NPDES application forms or any other information requested by the Regional Administrator.

Information on industrial discharges into municipal sanitary systems as required by 40 CFR 124.45(d) and (e) need not be routinely submitted (except as indicated below) to the Regional Administrator, but shall be available on a request basis. This information, however, shall be provided at the time the municipality applies for a construction grant. The Director shall condition municipal wastewater permits so that any violation of the terms and conditions of such permit resulting from any substantial change in volume or character of pollutants from that being introduced into such treatment works at the time of issuance of the permit is reported to the Director. The Director in turn shall notify the Regional Administrator.

Input to National Data Bank

The State will begin immediately upon program approval to operate the Management Information Control System (MICS) section of the national data system. Appropriate training in coding, updating, and inputting will be provided by EPA staff.

The State will phase into the input/output of the Compliance Monitoring Code as soon as hardware capabilities and manpower are available to absorb this portion of the data program. Until that time, the EPA Region VII Computer Services Center will handle this input/output. Appropriate training in coding, updating, and inputting will be provided by EPA staff.

The Regional Administrator can classify any self-monitoring report forms received as incomplete and will notify the Director of the violation of this provision of the permit in question.

The Environmental Protection Agency will continue the technical editing and inputting of the effluent parameters and technical information required by the inventory portion of the national data system (RAPP). At such time as the State has manpower and hardware available for this task, EPA will phase the State into RAPP. Appropriate training in coding, updating, and inputting will be provided by EPA staff.

All output capabilities are immediately available to the State, and will include training to staff in accessing the data banks. Retrievals from the national data bank will be made by EPA, Washington, or by the Permit Branch in preparation of reports and statistics required by Headquarters.

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Transmission to the Regional Administrator of Proposed NPDES Permits

At the time of public notice of permit pending, the Director shall transmit to the Regional Administrator, (a) a copy of the public notice, (b) a copy of the draft permit, and (c) when appropriate, a fact sheet. The letter transmitting these documents to the Regional Administrator shall contain a statement certifying that it meets the most stringent EPA regulations and effluent guidelines (interim or final) or standards in force at the time of issuance.

Within the thirty (30) day public notice comment period, the Regional Administrator shall make any objections in writing to the issuance of such permit as being in non-compliance with the requirements of 40 CFR 124 Subparts D, E, F, and G, and in the absence of any such objection, the Director can consider the proposed permit approved. If public comment and/or public hearings result in a modification of the proposed permit, the Director shall notify the Regional Administrator of such modification and the Regional Administrator shall have fifteen (15) days in addition to the thirty (30) day review period provided above to review and object to the modifications in the proposed permit. This additional fifteen (15) day review period may be shortened in individual cases at the discretion of the Regional Administrator.

In any case where the waters of another State may be affected by the issuance of a permit and that State has submitted written recommendations to the permitting State with respect to the permit application, EPA will have a thirty (30) day review period beginning on the date of EPA receipt of either the modified permit or written notification of rejection by the Director of the written recommendations which were submitted by the affected State.

An attempt will be made to resolve any differences to the mutual satisfaction of the Director and the Regional Administrator. If they are unable to reach an agreement, the Regional Administrator shall make the final determination until such time as the Administrator waives his authority under Section 402(d) of the Act.

The Director recognizes the requirement of the Act that all dischargers (except from publicly owned treatment works) achieve a level of treatment equal to or better than the best practicable treatment control technology currently available by July 1, 1977, and discharges from publicly owned treatment works achieve a level of treatment equal to or better than that prescribed by secondary treatment standards by July 1, 1977.

It is the responsibility of the Director to insure that all NPDES permits issued by the State conform with the plans required by Sections 303(e) and 208 of the Act. It is also the responsibility of the Director in the development of abatement schedules to be specified in NPDES permits issued to municipalities to coordinate the dates thereby established with the availability of Federal construction grant funds.

Transmission to Regional Administrator of Issued NPDES Permits

The Director shall transmit to the Regional Administrator a copy of each permit issued under the NPDES program immediately following issuance along with any and all terms, conditions, requirements, or documents which are a part of such permit or which affect the authorization of the discharge of pollutants.

The letter transmitting these documents to the Regional Administrator shall contain a statement certifying that it meets the most stringent EPA regulations and effluent guidelines (interim or final) or standards in force at the time of issuance. Conditions in addition to the above limitations may be included in the permit at the Director's discretion.

Renewal or Revision of NPDES Permits

The procedures and working agreements set forth in this document apply not only to the issuance of NPDES permits by the State of Kansas, but also to the renewal or revision of permits. The Regional Administrator at any time during the duration of a State issued NPDES permit can request with cause a modification to the self-monitoring requirements contained in a State issued NPDES permit.

Modifications to This Agreement

The procedures agreed to herein may be changed if necessary to affect compliance with Federal law or regulations or otherwise by mutual agreement of the Director and the Regional Administrator, either of which may propose modifications as needed. These changes are subject to the approval by the EPA Administrator.

The undersigned hereby certify that they have the authority to enter into such an agreement and to direct its implementation.

APPROVED:

11 May 1973

DATE

Jerome H. Svore

JEROME H. SVORE
REGIONAL ADMINISTRATOR
REGION VII
U.S. ENVIRONMENTAL PROTECTION AGENCY

APPROVED:

23 May 1973

DATE

Melville W. Gray

MELVILLE W. GRAY
CHIEF ENGINEER AND DIRECTOR
DIVISION OF ENVIRONMENTAL HEALTH
KANSAS STATE DEPARTMENT OF HEALTH

JOINT STATE/FEDERAL
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
WATER PERMIT PROGRAM

PROTOCOL WORKING AGREEMENT

BETWEEN THE

REGIONAL ADMINISTRATOR, REGION VII
U. S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

AND THE

DIRECTOR OF THE DIVISION OF ENVIRONMENTAL HEALTH
OF THE
KANSAS STATE DEPARTMENT OF HEALTH (KSDH)

On September 28, 1973, the Administrator of the United States Environmental Protection Agency, Russell Train, denied the Kansas request for approval to administer the National Pollutant Discharge Elimination System (NPDES) in the State of Kansas pursuant to Section 402 of the Federal Water Pollution Control Act Amendments of 1972. Mr. Train's denial letter of September 28, 1973, to Governor Robert Docking suggests the following arrangement:

"Until the necessary legislative adjustments are made, we hope you (Kansas) will consider entering into a joint program for NPDES permit issuance. Applications and other relevant information would be forwarded to Kansas personnel for processing and the preparation of draft permits. Joint public notice would be issued and, where appropriate, joint public hearings held. EPA would issue the final permit under FWPCA authority. For all such permits, Kansas would be principal draftsman, negotiator, and decision-maker. We offer this cooperative arrangement because we feel Kansas has a strong commitment to water pollution abatement and intends to maintain a leadership role in cleaning her waters."

Pursuant to this suggestion, the following is a Protocol Working Agreement between Region VII of the United States Environmental Protection Agency and the Division of Environmental Health of the Kansas State Department of Health for issuance of joint state/federal discharge authorizations and the general operation of a cooperative arrangement for the control of water pollution in the State of Kansas.

RULES AND REGULATIONS

The Division of Environmental Health of the Kansas State Department of Health agrees to abide by the provisions of 40 CFR 125, 40 CFR 105, and any other applicable regulations, directives, policies, guidelines, and requirements which direct or control the Environmental Protection Agency in the process of permit issuance under Section 402 of the Federal Water Pollution Control Act Amendments of 1972.

FEDERAL ENFORCEMENT

Nothing in this agreement in any way precludes the Administrator from taking enforcement action under Section 309 of the Federal Water Pollution Control Act Amendments of 1972. The State and EPA will conduct a cooperative compliance monitoring program designed to support both State and Federal enforcement activities.

FEDERAL ASSISTANCE TO THE STATE

EPA will be responsible for keeping the Director apprised of the meaning and content of Federal effluent guidelines, effluent standards, regulations, policy decisions, directives, and any other requirements which affect the permit program.

Prior to January 1, 1974, and prior to the beginning of each quarter thereafter, EPA and representatives of KSDH will meet and agree upon a production schedule for that quarter, with KSDH requesting at that time such technical or management assistance as may be

necessary to meet these production figures. EPA staff may be made available as necessary for assistance in drafting permits.

For purposes of long range planning, at the time the State Program Plans are prepared, the Director of the Division of Environmental Health (hereafter called the Director) will include a projection of the areas and extent of technical assistance required by the State. Included in this might be, for example, types of chemical analysis the State is not equipped to perform but for which there is a need in the compliance monitoring phase of the program.

In setting up and monitoring the State program, management assistance is always available upon request in developing systems and procedures to facilitate work flow and the meeting of deadlines, and in meeting EPA reporting requirements. Also at the disposal of the State is the Data Systems Branch General Point Source File, as well as printing service for public notice mailing labels in batch lots. This includes training and technical assistance as necessary.

TRANSMITTAL OF FEDERAL DATA TO THE STATE

All relevant data and information compiled by the Regional Administrator will be transmitted to the Director including but not limited to: (a) Refuse Act applications and pertinent correspondence; (b) any NPDES applications and pertinent correspondence; and (c) any other information collected by the Regional Administrator which would be of assistance in permit processing.

TRANSMITTAL OF DATA TO THE REGIONAL ADMINISTRATOR

The Director shall submit to the Regional Administrator copies of all information received from the applicant. A copy of all correspondence and other data received by KSDH pertaining to the permit including comments on the proposed permit, requests for public hearings, requests for adjudicatory hearings, monitoring data collected by the State, or monitoring data provided to the State which is not contained in a required self-monitoring report will also be transmitted to the Regional Administrator.

SPECIFIC PROCEDURES FOR PROCESSING OF APPLICATIONS & ISSUING PERMITS

I. FILING AND APPLICATION MANAGEMENT

EPA will forward copies of all permit applications, including those filed under the Refuse Act Permit Program and all NPDES Short Forms and Standard Forms, to the KSDH as soon as they are received and determined by EPA to be administratively complete. EPA will also forward any other pertinent information upon receipt.

When KSDH receives the administratively complete application, it will be entered into the State filing system, and the applicant will be directed by the State to complete a State application. The State application will authorize State use of Federal application data for purposes of processing the joint permit and will require submittal to the State of the State filing fee. In the case of a new discharger applying first to the State, the State will advise the applicant to also apply to EPA.

Management assistance will be made available to the State as needed to develop the application filing and control card systems. EPA will provide the State with a supply of all Federal NPDES application forms and with samples of standardized form letters for use or modification to fit the State's needs.

II. INPUT TO THE NATIONAL DATA BANK

EPA will be responsible for the registration of all applications into the National Data Bank. This registration will include the entry of technical effluent data into the RAPP portion of the General Point Source File. KSDH will then be responsible for maintaining an on-going code sheet documenting the updates for each step of processing procedures which culminate in either issuance or denial of the permit.

These code sheets will be periodically forwarded to EPA for input into the National Data System either by the Data Systems Branch or their contractor; or, at the option of the State, when the Data Bank becomes fully operational, the updating information may be input directly to the system from KSDH.

At the time of permit issuance, a copy of the completed permit will be forwarded by EPA Permit Branch to the EPA Compliance Branch for input of permit conditions to be used in compliance monitoring.

The State will have immediate access to input/output capabilities of the National Data System as soon as it becomes operational. Data Systems Branch personnel are immediately available to KSDH

personnel to provide training and technical assistance for this purpose.

III. PERMIT PROCESSING

Technical assistance and additional processing staff manpower is available upon request from EPA to the State when work schedules and production quotas demand. In addition, assistance with on-site sampling or field visits can be coordinated through Permit Branch staff with EPA Surveillance and Analysis Division personnel.

Two weeks prior to public notice of permit pending, the Director shall transmit to the Regional Administrator a copy of the public notice, a copy of the draft permit, and when appropriate, a fact sheet. If circumstances warrant, the two week time period may be extended at the discretion of EPA.

It is the responsibility of the Director to insure that all permits conform with the plans required by Sections 303 (e) and 208 of the Act.

In the development of abatement schedules for permits issued to municipalities, it is the responsibility of the Director to coordinate the dates thereby established with the availability of Federal construction grant funds within the constraints of the Act.

All permits will be in the form required by EPA, with additions deemed necessary or desirable by the State. The permit cover sheet will be as shown in Attachment 1.

Pursuant to Section 401(d) and 510 of the Act, the permit may contain conditions or limitations required by State law which are

more stringent than those required under Federal law.

IV. PUBLIC PARTICIPATION AND PUBLIC NOTICE PROCEDURES

It is the responsibility of the Environmental Protection Agency to satisfy the requirements of 40 CFR 125.14.

The State will assume responsibility for all other aspects of the joint public participation procedures. Management assistance will be provided by the Region in developing systems, procedures, form letters, and other tools to facilitate the public participation procedure. The same general system as is used in the Region will be implemented by the State.

Important milestones include the following:

Joint public notices of permit pending must be issued a minimum of 30 days prior to permit issuance, and will include a fact sheet for any discharge with a total volume of more than 500,000 gallons on any day of the year. The public notice general format used in Region VII follows the requirements of the regulations and is recommended. KSDH and EPA will agree on a joint public notice and fact sheet format to be used by KSDH, and this form will then be consistently used.

Joint public notices will be mailed to a general mailing list developed by EPA, and a State of Kansas mailing list jointly developed by EPA and KSDH. The State will be responsible for editing and correcting the lists on a regular basis and for ordering mailing lists from the EPA Data Systems Branch in a timely fashion. In addition to those

on the mailing lists, the State will provide copies of the joint public notice, fact sheet if applicable, and the draft permit to the applicant and to EPA, and will have the public notice/fact sheet posted in the local post office and by the City Clerk of each city in which an applicant's discharge is located. Proof of posting in the latter two locations will be furnished by a returned card which is sent to KSDH by the Postmaster or City Clerk certifying that he has posted the document. It is the responsibility of KSDH's public notice work unit to follow up on post cards which are not returned, to ascertain as far as possible that this posting did occur. The returned card then becomes a part of the file.

Notice will be mailed to any person or group on request. The Regional Administrator may also request the addition of any person or group to the mailing list that he deems appropriate.

A public comment period of not less than 30 days must be provided, during which time interested persons may submit their written views concerning the tentative determinations, or request that a hearing be held. These comments may be sent to KSDH for response by State staff; however, copies of all comments and responses thereto must be provided to EPA as soon as practicable, and will become a part of the master files.

All requests for extension of any public comment period received by the State pursuant to the joint public notice will be immediately forwarded to the Regional Administrator with appropriate State

recommendations. The Regional Administrator will make the final determination to grant or deny these requests.

Either EPA or KSDH staff may recommend to the Regional Administrator that a joint public hearing be held, based upon public comments or other factors. In the event a joint public hearing is held, a State employee will be appointed as hearing officer by the Regional Administrator with State and EPA staff available as resource people, unless it is mutually agreed that the use of an EPA hearing officer would be more appropriate.

KSDH will issue the notice of joint hearing and will make all arrangements as to time, place, court reporting or record service, and other organizational details. The court reporting service should be coordinated with a member of the EPA Permit Issuance Unit, since EPA court reporting contracts may be used. Court reporting is recommended for all hearings where any degree of controversy is likely. The notice of hearing shall follow an agreed-upon format and must be issued at least 30 days before the date of the hearing to provide interested persons with an opportunity to prepare themselves.

A decision to hold a hearing shall be based upon a determination by the Regional Administrator and the Director of the existence of a "significant degree of public interest." Any person shall be permitted to submit oral or written statements and other input concerning the proposed permit. The Hearing Officer shall have discretion to fix reasonable limits upon the time allowed for oral statements

and may require the submission of statements in writing.

A copy of the transcript or tape, and all other pertinent information related to the hearing shall be filed with EPA's Regional Hearing Clerk as well as with the State.

Following the public hearing, the Director and the Regional Administrator may make such modifications in the terms and conditions of proposed permits as may be appropriate and shall issue or deny the permit. KSDH shall provide a notice of such issuance or denial to any person who participated in the public hearing and to appropriate persons on the mailing list. This notice shall briefly indicate any significant changes which have been made from terms and conditions set forth in the draft permit.

If no public or adjudicatory hearing is held and substantial changes have been made in the draft permit, the Director shall notify the applicant of such changes and give public notice of such changes in the manner specified herein for public notice of permit pending. If within 30 days of such notice a request for an adjudicatory hearing is properly made to the Regional Administrator and such request pertains to the substantial changes made in the proposed permit, the Regional Administrator may hold an adjudicatory hearing. Either the Director or the Regional Administrator may require a public hearing with respect to the altered draft permit.

V. ADJUDICATORY HEARINGS

The Environmental Protection Agency will have exclusive authority to determine whether adjudicatory hearings will be held, to conduct such hearings, and to make final determinations pursuant thereto.

VI. PERMIT ISSUANCE

Once the final permit conditions have been decided upon at the close of the comment period, all comments will receive appropriate response and a final permit will be prepared by KSDH. Said permit will be signed by the Secretary*and forwarded to the Regional Administrator for signature. Permit Branch staff will then make copies for EPA requirements and return the original signed permit to the State for mailing to the applicant.

VII. STATE CERTIFICATION

Signature by the Director on the transmittal letter accompanying the permit in final form shall constitute State waiver of certification under Section 401 of the Act.

VIII. RENEWAL OR REVISION OF PERMITS

The procedures and working agreements set forth in this document apply not only to the issuance of joint State/Federal permits, but also to the renewal or revision of permits until such time as the State receives full authority to administer the NPDES program.

A modification in conditions contained in the joint permit may be required by either party.

IX. PUBLIC ACCESS TO INFORMATION AND CONFIDENTIALITY

All information held by the State or EPA concerning an application or a permit shall be available to the public except that which is afforded confidentiality under appropriate State or Federal law.

OBJECTIONS TO PERMIT BY ANOTHER STATE

If, upon receipt of the permit in final form from the State, the Regional Administrator determines that any discharge authorized therein may affect the quality of the waters of any State other than Kansas, the Regional Administrator will follow the procedures set forth in 40 CFR 125.41 and modify the permit as required before issuance.

MODIFICATIONS TO THIS AGREEMENT

The procedures agreed to herein may be changed if necessary to effect compliance with State or Federal law or regulations or otherwise by mutual agreement of the Director and the Regional Administrator, either of which may propose modifications as needed.

The undersigned hereby certify that they have the authority to enter into such an agreement and to direct its implementation.

APPROVED:

9/26/1973
Date

Jerome H. Svore
JEROME H. SVORE
REGIONAL ADMINISTRATOR
REGION VII
U.S. ENVIRONMENTAL PROTECTION AGENCY

APPROVED:

9/26/1973
Date

Melville W. Gray
MELVILLE W. GRAY
CHIEF ENGINEER AND DIRECTOR
DIVISION OF ENVIRONMENTAL HEALTH
KANSAS STATE DEPARTMENT OF HEALTH

Memorandum of Understanding between
Kansas Department of Health and Environment and
Region VII, United States Environmental Protection Agency

1. Purpose - This memorandum of understanding is for the purpose of describing a working arrangement between Kansas Department of Health and Environment (KDHE) and Region VII, United States Environmental Protection Agency (EPA) for development and implementation of local pretreatment programs within the State of Kansas in accordance with the general pretreatment regulations, Parts 125 and 403, as published in the Federal Register January 28, 1981, and its subsequent amendments.

2. Duration - This understanding shall remain in effect until terminated following 60 days written notice by either party or until such time as the State of Kansas shall be delegated the pretreatment program pursuant to the provisions of the general pretreatment regulations.

3. Operating Provisions:

a. KDHE shall carry out the provisions of general pretreatment regulations, Parts 125 and 403, except that EPA will remain responsible for issuing the POTW final program approvals as required in paragraph 403.11(c). EPA will also retain responsibility for NPDES State pretreatment program approval as addressed in paragraph 403.10(h).

b. KDHE will submit to EPA a listing of those POTWs required to develop a pretreatment program pursuant to paragraph 403.10(f)(2)(i).

c. KDHE will develop a program operating procedure as required by Section (f)(2) of paragraph 403.10 and submit it for EPA review and approval.

d. KDHE's submittal for a formal EPA POTW program approval will include a certification of compliance with applicable regulations, an explanation of the rationale and support of the certification, and a summary of public comments and responses there to. All other pertinent documentation will be made available to EPA on request.

e. KDHE submittals of POTW programs will include a notice of intent to certify compliance with applicable regulations, to be submitted prior to POTW program public notice. Any request by EPA for submission of additional documentation pursuant to the intent to certify will be made within seven days or additional documentation will not be required. EPA will provide KDHE any written comments on additional documentation submitted

within 14 days after receipt. KDHE will not proceed with public notice until 7 days after notice of intent to certify or until after any EPA comments have been satisfied if additional documentation has been requested. Following public notice KDHE will submit a certification that all POTW program requirements, have been met. EPA will take final approval/disapproval action within 14 days of receipt of the KDHE's certification letter.

f. KDHE will provide a monthly summary to EPA on the status of development of pretreatment programs for POTWs identified as needing pretreatment programs pursuant to the regulations.

g. KDHE shall submit all requests for variances from categorical pretreatment standards for fundamentally different factors to EPA for review and approval accompanied by KDHE's recommendation for approval or disapproval.

h. EPA may conduct random sample audits of pretreatment program activities carried out by KDHE. EPA will advise KDHE of its initial findings during an exit interview and provide KDHE a draft audit report within 30 days of the audit date. KDHE will have two weeks to respond to the draft audit report. EPA will issue a final audit report within 60 days of the audit.

i. KDHE will maintain an inventory of 403.12(b) industrial users reports received. Reports submitted to EPA will be forwarded to KDHE.

4. KDHE and EPA will meet at least once every 2 months to review program progress pursuant to this agreement. The first such meeting will be held during the last week of January 1983.

5. This amendment may be amended at any time by written agreement between Region VII, U.S. EPA and KDHE.

<i>James H. King</i>	<u>1-3-83</u>
KDHE	DATE
<i>William S. Abraham</i>	<u>2/3/82</u>
U.S. EPA	DATE

Index File



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
324 EAST ELEVENTH STREET
KANSAS CITY, MISSOURI - 64106

OFFICE OF
THE REGIONAL ADMINISTRATOR

SEP 17 1985

SEP 17 1985
[Faint handwritten notes and stamps]

Honorable John Carlin
Governor of Kansas
Topeka, Kansas 66620

Dear Governor Carlin:

On June 28, 1974, Kansas received authority to administer the National Pollutant Discharge Elimination System (NPDES) within its borders. EPA's approval letter indicated that we would retain authority to issue permits for Federal facilities within the State. The reservation of authority over Federal facilities was necessary because the Federal Water Pollution Control Act (FWPCA) precluded State regulation of these facilities.

The 1977 Amendments to the FWPCA specifically authorize the States to administer the NPDES permit program for Federal facilities. Accordingly, I have today approved the State of Kansas' request to assume this responsibility. This authority does not include Indian lands. Kansas is the twenty-eighth State to request and receive approval for administration of this important program.

We are glad to transfer the administration of the NPDES permit program for Federal facilities to the State of Kansas. Region VII will be working with the Kansas Department of Health and Environment to facilitate this transfer in a timely manner.

Sincerely yours,

Morris Kay
Regional Administrator, Region VII

cc: Barbara Sabol, Secretary
Kansas Department of Health
and Environment

cc: AA
GK
CH

Indian lands
Noted
[Stamp]

SEP 17 1985

AMENDMENT
TO THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MEMORANDUM OF AGREEMENT
KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
AND THE
UNITED STATE ENVIRONMENTAL PROTECTION AGENCY, REGION VII

The Memorandum of Agreement between the United States Environmental Protection Agency, Region VII (hereinafter EPA) and the Kansas Department of Health and Environment (hereinafter KDHE) is hereby amended to include KDHE and EPA responsibilities for the development, issuance and enforcement of National Pollutant Discharge Elimination System (hereinafter NPDES) general permits as follows:

The KDHE has the responsibility for developing and issuing NPDES general permits. After identifying dischargers appropriately regulated by a general permit, the KDHE will collect sufficient information to develop permit limitations and prepare the draft general permit.

Each draft general permit will be accompanied by a fact sheet setting forth the principal facts and methodologies considered during permit development and will be transmitted to the following EPA offices:

Water Management Division Director
U.S. EPA, Region VII
726 Minnesota Avenue
Kansas City, KS 66101

Director, Office of Wastewater Enforcement and Compliance¹
U.S. EPA (WH-546)
401 M Street, SW
Washington, D.C. 20460

EPA will have up to ninety (90) days to review draft general permits and provide comments, recommendations and objections to the KDHE. In the event EPA does object to a general permit it will provide, in writing, the reasons for its objection and the actions necessary to eliminate the objection. The State has the right to a public hearing on the objection in accordance with 40 CFR 123.44. Upon receipt of EPA's objection, the State may request a public hearing. If EPA's objections are not satisfied and the State has not sought a hearing within 90 days of the objection, exclusive authority to issue the general permit passes to EPA.

All general permits will be publicly noticed by the KDHE in accordance with K.A.R. 28-16-61 and 28-16-154 and 40 CFR 124.10, including publication in the Kansas Register. The public notice may be concurrent with or following the review by EPA. The KDHE will issue and administer NPDES general permits in accordance with K.A.R. 28-16-150 to 154 and 40 CFR 122.28.

The KDHE also has the primary responsibility for conducting compliance monitoring activities and enforcing conditions and requirements of general permits.

All specific State commitments regarding the issuance and enforcement of general permits will be determined through the annual 106 workplan/SEA process.

¹General permits for discharges from separate storm sewers need not be sent to EPA Headquarters for review.

This Amendment to the Memorandum of Agreement will be effective upon approval of the KDHE's general permit program application by the Regional Administrator of EPA Region VII.

FOR KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT:

Charles Jones
Director

22 3pt 93
(Date)

FOR UNITED STATE ENVIRONMENTAL PROTECTION AGENCY:

William Lee
Acting Regional Administrator
U.S. EPA, Region VII

11/24/93
(Date)