



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

WASHINGTON, D.C. 20460

**MEMORANDUM**

**September 28, 2006**

OFFICE OF  
WATER

**SUBJECT: New Source Dates for Direct and Indirect Dischargers**

**FROM: Linda Boornazian, Director /s/  
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**TO: Regional Water Division Directors**

The Clean Water Act (CWA) requires the U.S. Environmental Protection Agency (EPA) to establish Federal standards of performance for new sources from which there are or may be discharges of pollutants for specified categories of sources. 33 U.S.C. § 1316 (Section 306). Section 306 requires a new source to meet a standard that reflects the greatest degree of effluent reduction that EPA determines can be achieved by application of the best available demonstrated technology, processes, operating methods, or other alternatives. 33 U.S.C. §1316. New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, standards of performance for new sources should represent the most stringent controls attainable through the application of the best available control technology for all pollutants (i.e., conventional, non-conventional, and priority pollutants).

This memorandum summarizes EPA regulatory requirements for determining what sources are new sources. Specifically, this document provides a summary of relevant regulatory criteria for consideration in this determination as well as a listing of applicable new source dates used in making new source determinations.

The statutory provisions and EPA regulations contain legally binding requirements. This memorandum does not impose any new legally binding requirements on EPA, States or the regulated community. This memorandum does not confer legal rights or impose legal obligations upon any member of the public. In the event of a conflict between the discussion in this document and any statute or regulation, this document would not be controlling.

The general descriptions provided here may not apply to particular situations based upon the circumstances. Interested parties are free to raise questions and objections about the substance of this memorandum and the appropriateness of the application of this memorandum to a particular situation. EPA and other decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from those described in this memorandum where appropriate.

Mention of trade names or commercial products does not constitute an endorsement or recommendation for their use.

## **1. What Are the Practical Effects of a New Source Determination?**

After the effective date of any applicable new source standard of performance, the CWA prohibits the owner or operator of any new source from operating the source in violation of that standard. 33 U.S.C. §1316(e), §1317(d). The CWA requires EPA to establish new source performance standards (NSPS) in the case of “direct dischargers”, or sources that discharge directly to waters of the United States. 33 U.S.C. §1316. For “indirect dischargers”, or sources that introduce pollutants to POTWs, EPA must establish pretreatment standards for new sources (PSNS). The promulgation of NSPS should represent the most stringent controls attainable through the application of the best available demonstrated control technology for all pollutants. PSNS represent the most stringent controls attainable for pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. 67 Fed. Reg. 64219 (October 17, 2002). PSNS are generally issued at the same time as NSPS. 33 U.S.C. §1317(c). Both PSNS and NSPS are referred to individually or collectively as “new source standards” in this memorandum.

New sources face more immediate compliance deadlines than existing sources. When EPA establishes new technology-based effluent limitations, existing direct dischargers must comply with such standards when their NPDES permits are issued, reissued, or modified. In practice, this means, in the case of a direct discharger whose permit is reissued just before EPA promulgates new limitations, that the discharger may not be required to comply for up to five years. In the case of existing indirect dischargers, EPA generally requires compliance with new pretreatment standards within three years of publication of the standard. In comparison, after the effective date of a new source standard, the CWA stipulates that it is unlawful for any owner or operator to operate such a source in violation of those standards. 33 U.S.C. 1316(e) and 1317(d). For both direct and indirect dischargers, the regulations specify that new sources “shall install and have in operating condition, and shall ‘start up’ all pollution control equipment” required to meet applicable standards prior to commencing discharge. The regulations also indicate that the owner or operator of a new source must meet all applicable standards within “the shortest feasible time (not to exceed 90 days).” 40 CFR 122.29(d)(4), 40 CFR 403.6(b).

If construction results in a new source, the discharger will be affected differently depending on what changes occurred at the site. The discharger's entire facility may be subject to new source standards, or, if the new source is a new installation of process equipment at an existing facility, part of the facility may be subject to existing source standards and other parts of the facility subject to new source standards.

Additionally, it should be noted that EPA-issued NPDES permits for new sources are deemed major Federal actions subject to the National Environmental Policy Act's (NEPA's) requirements, 33 U.S.C. §1371(c)(1). See also, 40 CFR Part 6, Subpart F at 6.600 et seq.

## **2. New Source Dates - Regulatory Background**

Under the CWA, any source, the construction of which is commenced after promulgation of NSPS or publication of proposed PSNS for most indirect dischargers applicable to the source, is a new source. 33 U.S.C. §1316(a)(2). The term "source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants. Because the statute broadly defines "construction" as "any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises" (see Section 306(a) of the CWA), a number of activities may give rise to new source status. EPA's regulations provide specific criteria for determining when construction of a source is a new source. The new source criteria for direct dischargers, at 40 CFR 122.29(b), and for indirect dischargers, at 40 CFR 403.3(m), use essentially the same language. See Appendix A for the full regulatory text for both direct and indirect dischargers.

Perhaps the most fundamental step in determining whether a particular source is a new source is to determine whether its construction commenced after the applicable new source date. This step corresponds to the statutory definition of "new source" which includes within its scope "sources, the construction of which *commenced after the publication of proposed regulations*<sup>1</sup> *prescribing a standard of performance ... if such standard is thereafter promulgated.*" (italics added) 33 U.S.C. §1316(a)(2). This step can be broken down into three separate questions: (a) did *construction* occur; (b) did construction *commence*; and (c) did construction commence *after the new source date*? The applicable new source date is the critical frame of reference in this step of the new source determination. New source dates are generally either the dates of the proposal of an applicable new source standard in the case of indirect dischargers, or the dates of promulgation in the case of direct dischargers. Appendix B includes a comprehensive listing of the applicable new source dates for each effluent guideline category.

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<sup>1</sup> In practice, the new source dates are different depending on whether the source is a direct or indirect discharger. See Section 2.c for further discussion.

## 2.a. Did *construction* occur?

As previously noted, the CWA defines new sources as those *constructed* after the new source date (see, also, discussion below in 2.c). EPA emphasizes that a source, whether it is a direct or indirect discharger, may be either something as large-scale as a facility or something as small as a piece of equipment installed as part of an existing operation. The CWA defines “source” to include “any building, structure, facility, or installation” and defines construction to include “any placement, assembly, or installation of facilities and equipment.” Thus, under the CWA, “construction” refers both to the construction of any building, structure, or facility, and to the installation of equipment. A “new source,” then, is the placement, assembly or installation of facilities or equipment which commenced after the new source date and which satisfies the other regulatory criteria discussed below. As a consequence, a wide range of activities may potentially result in a new source classification. Throughout the remaining portions of this memorandum document, the words “facilities or equipment” will be used interchangeably with the term “source”, and “building, structure, facility, or installation.”

In addition, it is important to recognize that the “source” of a discharge from an industrial operation is the facility generating the discharge, not the system treating it. *Mahelona v. Hawaiian Electric Company, Inc.*, 418 F. Supp 1328 (Aug. 27, 1976), 49 Fed. Reg. 38044 (Sept. 26, 1984). More specifically, the source of the discharge is the production or wastewater generating processes of the operation. The treatment system used to reduce pollutants in the waste stream, on the other hand, is not the source of the discharge. This distinction is significant for making new source determinations, especially for new construction at existing sites. Applying this approach, EPA has previously determined that a newly constructed facility is a new source even if its discharge is conveyed through an existing waste treatment system. 49 Fed. Reg. 38044 (Sept. 26, 1984). Similarly, in EPA’s view, where an owner or operator makes changes only to its wastewater treatment systems, and no changes occur in the production or wastewater generating processes of the plant, the source should not be reclassified as a new source. Dischargers in the Centralized Waste Treatment (CWT) category are generally the exception to this principle. Unlike other industrial categories, because waste treatment *is* the industrial process for CWT facilities, new changes in treatment may very well trigger new source requirements.

EPA also points out that certain types of changes to the operation of a source are not considered construction for new source purposes, and therefore should not require that the source be reclassified as a new source. For instance, where the only change made is in the ownership or management of a source, without any associated changes to the internal processes of the operation, there is no new construction and, therefore, there is no new source.

## **2.b. Did construction *commence*?**

The new source regulations explain that construction commences if an entity either undertakes or begins certain work as part of a continuous on-site construction program, or enters into contractual obligations to purchase facilities or equipment. 40 CFR 122.29(b)(4), 40 CFR 403.3(m)(3). EPA notes that the regulations recognize that construction commences not only after the traditional physical aspects of construction have begun, but also after the associated purchase orders or contracts have been agreed upon (see further discussion below). The initiation of either one of these activities represents triggering events for the new source analysis.

### **Physical Commencement of Construction**

The new source regulations clarify what types of actual physical construction may signal the commencement of construction. One type of activity is the “placement, assembly, or installation of facilities or equipment.” 40 CFR 122.29(b)(4)(i)(A), 40 CFR 403.3(m)(3)(i)(A). The other type of activity is “significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities” related to the placement, assembly, or installation of facilities or equipment. The scope of the activities covered highlights the fact that the regulations capture not only the construction of a new or renovated building, structure, or facility, but also smaller scale activities, such as the installation of equipment (e.g., a new process tank).

It is also noteworthy that the new source regulations *do not* specify *new* facilities or *new* equipment being placed, assembled, or installed. Therefore, construction may commence if an entity reassembles old equipment or relocates it in a new location. For example, in certain circumstances, EPA has concluded that construction of a new source would commence when moving existing equipment into an existing building that did not previously have an industrial discharge to the sewer. 53 FR 40562 at 40602 (October 17, 1988).

### **Commencement of Construction by Purchase Contract**

As noted previously, construction can sometimes commence at a point prior to the initiation of any placement, assembly, or installation of facilities or equipment, or of any related site preparation work. The new source regulations provide that construction may begin when the owner or operator has entered into a binding contractual obligation to purchase facilities or equipment intended to be used for operational purposes within a reasonable period of time. 40 CFR 122.29(b)(4)(ii), 40 CFR 403.3(m)(3)(ii). The initiation of a binding purchase contract is included as a triggering event because it may indicate the owner’s or operator’s intent to construct a source, represent a critical time in the commitment of resources towards construction, and, therefore, signal an opportunity to install more effective treatment or processes to meet a higher standard of performance.

There are some notable exceptions to this contract formation provision. The following types of contractual obligations do not cause the commencement of construction for new source purposes: options to purchase; contracts which can be terminated or modified without substantial loss; and contracts for feasibility, engineering, and design studies. 40 CFR 122.29(b)(4)(ii), 40 CFR 403.3(m)(3)(ii).

EPA emphasizes that the important moment in time for the discharger is the date construction commenced, and not the date on which the discharge of pollutants first occurs. (Note: The discharger is generally required to comply with the standards upon commencement of discharge.) This distinction is important, since the date construction commences occurs at a point in time prior to the date the discharge begins, and is consistent with the purpose of the new source requirements to incorporate new treatment technologies when the owner or operator has the opportunity to do so.

### **2.c. Did construction commence *after the new source date*?**

To be considered a new source, the construction must have commenced after the applicable new source date. The new source dates are critical to the new source analysis. If construction commenced after the new source date, there is a possibility that the source could be considered a new source if it meets the regulatory criteria on 40 CFR 122.29(b) or 403.3(m)(1). However, if the construction begins before the new source date, the source will generally be considered an existing source, not subject to new source standards, unless there was other construction after the new source date which constitutes a “total replacement” or is “substantially independent from the existing source” (see 40 CFR 122.29(b)(ii) and (iii) and 40 CFR 403.3(m)(1)(ii) and (iii)). Similarly, if construction commenced before the new source date, and ends after the new source date, the source would generally be considered an existing source, unless there was other construction after the new source date which constitutes a total replacement or is substantially independent from the existing source.

New source dates are either the dates of proposal of an applicable new source standard in the case of indirect dischargers or the dates of promulgation in the case of direct dischargers. The statute provides that the date for purposes of determining whether a source is a new source is the date of publication of a proposed standard for all dischargers, as long as the standard is thereafter promulgated in accordance with section 306 (33 U.S.C. §1316(a)(2)). These dates may differ from the proposal date, however, depending on whether the source is a direct or indirect discharger. The new source date for direct dischargers is the date on which an applicable new source standard is promulgated.<sup>2</sup> EPA notes that the regulations specify the new source date is the date of *proposal* only if the standard is promulgated within 120 days. Because

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<sup>2</sup> EPA regulations promulgated in 1985 provide that, for the purpose of judicial review, the time and date of EPA action in promulgation of a Federal Register notice is the date two weeks after the notice appears in the Federal Register (see 40 CFR 23.2). For that reason, EPA has added two weeks to the publication date for new source dates for direct discharge categories which have been promulgated since 1985.

EPA has rarely finalized these standards in fewer than 120 days, this provision has not often come into play. In comparison, EPA regulations provide that the new source date for indirect dischargers is the date on which the pretreatment standard for new sources is *proposed*. 40 CFR 403.3(m)(1). In addition, EPA has varied from this general rule of thumb in some instances when establishing new source dates for either direct or indirect dischargers for certain new or revised effluent guidelines. Refer to Appendix B.

If you have any questions, please feel free to contact Greg Schaner at (202) 564-0721 or Jan Pickrel at (202) 564-7904.

cc: Water Division Directors  
Regions 1 - 10

APPENDIX A New Source Regulatory Text

APPENDIX B New Source Dates by Effluent Guideline Category

## Appendix A New Source Regulatory Text

### 1. Regulatory Definitions Applicable to Direct Dischargers

#### **40 CFR 122.2**

“New source means any building, structure, facility, or installation from which there is or may be a “discharge of pollutants,” the construction of which commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or

(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.”

#### **40 CFR 122.29**

“(a) *Definitions.* (1) *New source* and *new discharger* are defined in §122.2. [See Note 2.]

(2) *Source* means any building, structure, facility, or installation from which there is or may be a discharge of pollutants.

(3) *Existing source* means any source which is not a new source or a new discharger.

(4) *Site* is defined in §122.2;

(5) *Facilities or equipment* means buildings, structures, process or production equipment or machinery which form a permanent part of the new source and which will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the source or water pollution treatment for the source.

(b) *Criteria for new source determination.* (1) Except as otherwise provided in an applicable new source performance standard, a source is a “new source” if it meets the definition of “new source” in §122.2, and

(i) It is constructed at a site at which no other source is located; or

(ii) It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Director shall consider



such factors as the extent to which the new facility is integrated with the existing plant; and the extent to which the new facility is engaged in the same general type of activity as the existing source.

(2) A source meeting the requirements of paragraphs (b)(1) (i), (ii), or (iii) of this section is a new source only if a new source performance standard is independently applicable to it. If there is no such independently applicable standard, the source is a new discharger. See §122.2.

(3) Construction on a site at which an existing source is located results in a modification subject to §122.62 rather than a new source (or a new discharger) if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraph (b)(1) (ii) or (iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.

(4) Construction of a new source as defined under §122.2 has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous on-site construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation with a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering, and design studies do not constitute a contractual obligation under the paragraph.

(c) *Requirement for an environmental impact statement.* (1) The issuance of an NPDES permit to new source:

(i) By EPA may be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 33 U.S.C. 4321 *et seq.* and is subject to the environmental review provisions of NEPA as set out in 40 CFR part 6, subpart F. EPA will determine whether an Environmental Impact Statement (EIS) is required under §122.21(l) (special provisions for applications from new sources) and 40 CFR part 6, subpart F;

(ii) By an NPDES approved State is not a Federal action and therefore does not require EPA to conduct an environmental review.

(2) An EIS prepared under this paragraph shall include a recommendation either to issue or deny the permit.

(i) If the recommendation is to deny the permit, the final EIS shall contain the reasons for the recommendation and list those measures, if any, which the applicant could take to cause the recommendation to be changed;

(ii) If the recommendation is to issue the permit, the final EIS shall recommend the actions, if any, which the permittee should take to prevent or minimize any adverse environmental impacts;

(3) The Regional Administrator, to the extent allowed by law, shall issue, condition (other than imposing effluent limitations), or deny the new source NPDES permit following a complete evaluation of any significant beneficial and adverse impacts of the proposed action and a review of the recommendations contained in the EIS or finding of no significant impact.

(d) *Effect of compliance with new source performance standards.* (The provisions of this paragraph do not apply to existing sources which modify their pollution control facilities or construct new pollution control facilities and achieve performance standards, but which are neither new sources or new dischargers or otherwise do not meet the requirements of this paragraph.)

(1) Except as provided in paragraph (d)(2) of this section, any new discharger, the construction of which commenced after October 18, 1972, or new source which meets the applicable promulgated new source performance standards before the commencement of discharge, may not be subject to any more stringent new source performance standards or to any more stringent technology-based standards under section 301(b)(2) of CWA for the soonest ending of the following periods:

(i) Ten years from the date that construction is completed;

(ii) Ten years from the date the source begins to discharge process or other nonconstruction related wastewater; or

(iii) The period of depreciation or amortization of the facility for the purposes of section 167 or 169 (or both) of the Internal Revenue Code of 1954.

(2) The protection from more stringent standards of performance afforded by paragraph (d)(1) of this section does not apply to:

(i) Additional or more stringent permit conditions which are not technology based; for example, conditions based on water quality standards, or toxic effluent standards or prohibitions under section 307(a) of CWA; or

(ii) Additional permit conditions in accordance with §125.3 controlling toxic pollutants or hazardous substances which are not controlled by new source performance standards. This includes permit conditions controlling pollutants other than those identified as toxic pollutants or hazardous substances when control of these pollutants has been specifically identified as the method to control the toxic pollutants or hazardous substances.

(3) When an NPDES permit issued to a source with a “protection period” under paragraph (d)(1) of this section will expire on or after the expiration of the protection period, that permit shall require the owner or operator of the source to comply with the requirements of section 301 and any other then applicable requirements of CWA immediately upon the expiration of the protection period. No additional period for achieving compliance with these requirements may be allowed except when necessary to achieve compliance with requirements promulgated less than 3 years before the expiration of the protection period.

(4) The owner or operator of a new source, a new discharger which commenced discharge after August 13, 1979, or a recommencing discharger shall install and have in operating condition, and shall “start-up” all pollution control equipment required to meet the conditions of its permits before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), the owner or operator must meet all permit conditions. The requirements of this paragraph do not apply if the owner or operator is issued a permit containing a compliance schedule under §122.47(a)(2).

(5) After the effective date of new source performance standards, it shall be unlawful for any owner or operator of any new source to operate the source in violation of those standards applicable to the source.”

## **2. Regulatory Definitions Applicable to Indirect Dischargers**

### **40 CFR 403.3(m)**

(1) The term New Source means any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (m)(1)(ii) or (m)(1)(iii) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.” [40 CFR § 403.3(m)]

## Appendix B New Source Dates by Effluent Guideline Category

EPA has promulgated regulations under the Clean Water Act (CWA) that establish effluent limitations guidelines for existing sources, standards of performance for new sources and pretreatment standards for new and existing sources. EPA has codified these regulations at 40 CFR, Subchapter N. EPA has published effluent guidelines for 56 major industrial categories (over 450 subcategories) since the passage of the 1972 CWA. These regulations limit the discharge of pollutants to surface waters by point source dischargers (“direct dischargers”). These regulations also limit the introduction of pollutants into publicly owned treatment works (POTWs) by industrial users (“indirect dischargers”). The CWA and EPA regulations define when a source is a “new source.” A discharger is defined as a “new source” in CWA sections 306(a)(2) and 307(c) and 40 CFR 122.2 (for direct dischargers) and 403.3(m) (for indirect dischargers). In general, a facility is a “new source” if it commences construction after either the date of promulgation of pretreatment standards for new sources applicable to an indirect discharger or the date of publication of a proposed pretreatment standards for new sources applicable to an indirect discharger.

The table below lists new source dates for direct or indirect dischargers based on regulatory definitions. In some cases, effluent guidelines in 40 CFR Chapter I, Subchapter N, specify New Source Dates, and these dates are reported in the table below. If dates are not specified in the rule language, EPA relied on the regulatory definitions of “New Source,” which are cited above. Pretreatment regulations state that the New Source date for indirect dischargers is the date on which EPA publishes the proposed rule, as long as the proposed standard is later finalized (40 CFR 403.3(m)). For direct dischargers, 40 CFR 122.2 states that the New Source date is the proposal date if the standard is finalized within 120 days after its proposal; otherwise, the New Source date is the “promulgation date.” According to February 1985 EPA regulations, the “promulgation date” is the date on which the rule is promulgated for the purposes of judicial review, which is two weeks after the rule appears in the Federal Register (see 40 CFR 23.2). Prior to February 1985, the date on which the final rule was published was considered the promulgation date.

This document is not a regulation itself, nor does it substitute for any requirements under the CWA or EPA’s regulations. Thus, it does not impose legally binding requirements on EPA, states or the regulated community. While EPA has made every effort to ensure the accuracy of this table, dischargers’ obligations are determined, in the case of direct dischargers, by the terms of their NPDES permit and the CWA and EPA’s regulations, and, in the case of indirect dischargers, by permits or equivalent control mechanisms issued to POTW industrial users and the CWA and EPA regulations. Nothing in this document changes any statutory or regulatory requirement. In the event of a conflict between the discussion in this memorandum and any permit or regulation, this document would not be controlling.

<b>40 CFR Part</b>	<b>Category</b>	<b>New Source Date for Direct Dischargers</b>	<b>New Source Date for Indirect Dischargers</b>
467	Aluminum Forming	Subparts A-F: 10/24/83	Subparts A-F: 11/22/82
427	Asbestos Manufacturing	Subparts A-K: 10/30/73 <sup>1</sup>	Not Applicable
461	Battery Manufacturing	Subparts A-G: 3/9/84	Subparts A-G 11/10/82
407	Canned and Preserved Fruits and Vegetables Processing	Subparts A-H: 3/21/74	Not Applicable

<sup>1</sup> The rule was finalized within 120 days of its October 30, 1973, proposal (38 FR 22606).

40 CFR Part	Category	New Source Date for Direct Dischargers	New Source Date for Indirect Dischargers
408	Canned and Preserved Seafood Processing	Subparts A-J, N: 6/26/74 Subparts O-AG: 12/1/75	Not Applicable
458	Carbon Black Manufacturing	Subparts A-D: 1/9/78	Subparts A-D: 5/18/76
411	Cement Manufacturing	Subparts A-C: 2/20/74	Not Applicable
437	Centralized Waste Treatment (CWT)	Subparts A-D: 1/5/01	Subparts A-D: 1/13/99
434	Coal Mining	Subparts B-E, H 5/4/84 <sup>2</sup> Subpart G 2/22/02 <sup>3</sup>	Not Applicable
465	Coil Coating	Subparts A-C: 12/1/82 Subpart D: 11/17/83	Subparts A-C: 1/12/81 Subpart D: 2/10/83
412	Concentrated Animal Feeding Operations (CAFO)	Subparts A-B: 2/14/74 Subparts C-D: 4/14/03 <sup>4</sup>	Subpart B: 9/7/73
451	Concentrated Aquatic Animal Production	Subparts A-B: 9/7/04	Not Applicable
468	Copper Forming	Subpart A: 8/15/83	Subpart A: 11/12/82
405	Dairy Products Processing	Subparts A-L: 5/28/74	Not Applicable
469	Electrical and Electronic Components	Subparts A-B: 4/8/83 Subparts C-D: 12/14/83	Subparts A-B: 8/24/82 Subparts C-D: 3/9/83
413	Electroplating	Not Applicable <sup>5</sup>	See Metal Finishing <sup>6</sup>
457	Explosives Manufacturing	Not Applicable	Not Applicable
424	Ferroalloy Manufacturing	Subparts A-C: 2/22/74	Not Applicable
418	Fertilizer Manufacturing	Subparts A-D: 4/8/74 Subpart E: 1/16/76 Subparts F-G: 10/7/74 <sup>7</sup>	Subparts A-D: <sup>8</sup> 12/7/73 Subpart E: 1/16/76 Subparts F-G: 10/7/74

<sup>2</sup> The New Source date is specified in 40 CFR 434.11(j)(1).

<sup>3</sup> The New Source date is specified in 40 CFR 434.11(j)(1).

<sup>4</sup> New Source date derived from the 10-year protection period (see 40 CFR 412.35(d) and 412.43(d)).

<sup>5</sup> Direct dischargers formerly regulated under Part 413 are now regulated under Part 433 (metal finishing).

<sup>6</sup> Pretreatment categorical standards in Part 413 currently apply only to job shop electroplaters and independent printed circuit board manufacturers that were in existence before the New Source date for Part 433 (metal finishing). Job shop electroplaters and independent printed circuit board manufacturers that are "New Sources" must comply with PSNS in Part 433. Except for these "existing" job shop electroplaters and independent printed circuit board manufacturers, all other operations formerly subject to Part 413 are now subject to Part 433.

40 CFR Part	Category	New Source Date for Direct Dischargers	New Source Date for Indirect Dischargers
426	Glass Manufacturing	Subpart A: 1/22/74 Subparts B-D: 2/14/74 Subparts E-G: 2/14/74 Subparts H, J-M: 1/16/75	Subparts H, K-M: 8/21/74
406	Grain Mills	Subparts A-J: 12/4/73 <sup>9</sup>	Subparts A: 12/4/73
454	Gum and Wood Chemicals	Not Applicable	Not Applicable
460	Hospitals	Not Applicable	Not Applicable
447	Ink Formulating	Subpart A: 7/28/75	Subpart A: 2/26/75
415	Inorganic Chemicals	Subparts B-F, H, K-N, P, Q, T, V, W, AJ [CuSO <sub>4</sub> manufacturing], AH, AP, AU [NiSO <sub>4</sub> manufacturing], BB: 6/29/82 Subparts AJ [except CuSO <sub>4</sub> manufacturing], AU [except NiSO <sub>4</sub> manufacturing], BL - BO: 8/22/84	Subparts B - F, H, K-N, P, Q, V, AH, AJ [CuSO <sub>4</sub> manufacturing], AP, AU [NiSO <sub>4</sub> manufacturing], BB: 7/24/80 Subparts T, AA, AC, AE, AI, AJ [except CuSO <sub>4</sub> manufacturing], AL, AN, AQ, AR, AU [except NiSO <sub>4</sub> manufacturing], AX, BC, BH, BK-BO: 10/25/83
420	Iron and Steel Manufacturing	Subparts A & B: 11/18/02 <sup>10</sup> Subpart C: 5/27/82 Subpart D, Semi-Wet: 10/31/02 Subpart D, Other: 5/27/82 Subparts E-L: 5/27/82 Subpart M: 10/31/02	Subparts A & B: 11/18/02 <sup>11</sup> Subpart C: 1/7/81 Subpart D, Semi-Wet: 12/27/00 Subpart D, Other: 1/7/81 Subparts E-F,H-J,L: 1/7/81 Subpart M: 12/27/00
445	Landfills	Subparts A-B: 2/2/00	Not Applicable

<sup>7</sup> The rule was finalized within 120 days of its October 7, 1974, proposal.

<sup>8</sup> Section 41 8.46 (the PSNS under Subpart D) was suspended until further notice, at 40 FR 26275, June 23, 1975, effective July 20, 1975.

<sup>9</sup> The rule was finalized within 120 days of its December 4, 1973, proposal (38 FR 33438).

<sup>10</sup> Date specified in 40 CFR 420.14(a)(2), 420.16(a)(2), 420.24(b), and 420.26(a)(2).

<sup>11</sup> See previous footnote.

40 CFR Part	Category	New Source Date for Direct Dischargers	New Source Date for Indirect Dischargers
425	Leather Tanning and Finishing	Subparts A, B, D-I: 11/23/82 Subpart C: 4/4/88	Subpart A, B, D-I: 7/2/79 Subpart C: 1/21/87
432	Meat and Poultry Products	Subparts A-D: Small Facilities: 2/28/74 <sup>12</sup> Others: 9/22/04 Subparts E-I: Small Facilities: 1/3/75 <sup>13</sup> Others: 9/22/04 Subpart J-L: 9/22/04	Not Applicable
433	Metal Finishing	Subpart A: 7/15/83	Subpart A: 8/31/82
464	Metal Molding and Casting	Subparts A-D: 11/13/85	Subparts A-D: 11/15/82
438	Metal Products and Machinery	Subpart A: 6/12/03 <sup>14</sup>	Not Applicable <small>\$464.04 Compliance date for PSES. The compliance date of PSES is October 31, 1988.</small>
436	Mineral Mining and Processing	Not Applicable	Not Applicable
471	Nonferrous Metals Forming and Metal Powders	Subparts A-J: 9/6/85	Subparts A-J: 3/5/84
421	Nonferrous Metal Manufacturing	Subparts B-I (except molybdenum acid plants), K-M: 3/8/84 Subparts N-AE, molybdenum acid plants in subpart I: 10/4/85 Subpart J: 2/4/88	Subparts B-I (except molybdenum acid plants), K-M: 2/17/83 Subparts N-AE, molybdenum acid plants in subpart I: 6/27/84 Subpart J: 1/22/87
435	Oil and Gas Extraction <sup>15</sup>	Subparts C (Onshore), D (Coastal), and E (Agriculture & Wildlife): 3/4/93 Subparts A and D (Synthetic-Based Drilling Fluids): 2/5/01	Subpart D: 2/17/95

<sup>12</sup> The 2004 Amendment did not revise NSPSs for small meat products facilities in Subparts A-I, so the 2004 New Source date does not affect these facilities.

<sup>13</sup> See previous footnote.

<sup>14</sup> Date specified in 40 CFR 438.15.

<sup>15</sup> See promulgated standards at 40 CFR 58 FR 12505 and 66 FR 6850 for complete information on the applicability of New Source standards.



<b>40 CFR Part</b>	<b>Category</b>	<b>New Source Date for Direct Dischargers</b>	<b>New Source Date for Indirect Dischargers</b>
440	Ore Mining and Dressing	Subparts A-F, J, M 12/3/82	Not Applicable
414	Organic Chemicals, Plastics, and Synthetic Fibers	Subparts B-H: 11/19/87	Subparts B-H: 3/21/83
446	Paint Formulating	Subpart A: 7/28/75	Subpart A: 2/26/75
443	Paving and Roofing Materials (Tars and Asphalt)	Subparts A-D: 7/28/75	Subparts A-D: 1/10/75
455	Pesticide Chemicals	Subparts A-B: 10/12/93 Subparts C, E: 11/20/96	Subparts A-B: 4/10/92 Subparts C, E: 4/14/94
419	Petroleum Refining	Subparts A-E: 10/18/82	Subparts A-E: 12/21/79
439	Pharmaceutical Manufacturing	Subparts A-D: 11/20/98 <sup>16</sup>	Subparts A-D: 5/2/95
422	Phosphate Manufacturing	Subparts D-F: 6/23/76	Not Applicable
459	Photographic	Not Applicable	Not Applicable
463	Plastics Molding and Forming	Subparts A-C: 12/17/84	Not Applicable
466	Porcelain Enameling	Subparts A-D: 11/24/82	Subparts A-D: 1/27/81
430	Pulp, Paper, and Paperboard	Subparts B, E: 6/15/98 <sup>17</sup> Subparts A, C, D, F, G, I-L: 11/18/82	Subparts B, E: 12/17/93 Subparts A, C, D, F, G, I-L: 1/6/81
428	Rubber Manufacturing	Subparts A-D: 2/21/74 Subparts E-J: 1/10/75	Subparts E-K: 8/23/74
417	Soap and Detergents Manufacturing	Subparts A-S: 4/12/74	Subpart Q: 12/26/73 Subparts O,P,R: 2/20/75
423	Steam Electric Power Generation	11/19/82 <sup>18</sup>	10/14/80
409	Sugar Processing	Subpart A: 1/31/74 Subparts B, C: 12/7/73 <sup>19</sup>	Not Applicable

<sup>16</sup> New Source date derived from the 10-year protection period (see 40 CFR 439.15(c), 439.35(c), and 439.45(b)).

<sup>17</sup> Date specified in 40 CFR 430.25(b) and 430.55(b). Refer to these sections for additional information regarding the applicability of NSPSs.

<sup>18</sup> NSPS promulgated were not removed via the 1982 regulation; therefore wastewaters generated by Part 423-applicable sources that were New Sources under the 1974 regulations are subject to the 1974 NSPS. The New Source date for the 1974 regulations was 10/8/1974.

<sup>19</sup> The rule was finalized within 120 days of its December 7, 1973, proposal (38 FR 33846).

<b>40 CFR Part</b>	<b>Category</b>	<b>New Source Date for Direct Dischargers</b>		<b>New Source Date for Indirect Dischargers</b>
410	Textile Mills	Subparts A-I:	9/2/82	Not Applicable
429	Timber Products Processing	Subparts A-P:	1/26/81	Subparts F-H: 10/31/79
442	Transportation Equipment Cleaning	Subparts A-D:	8/28/00	Subparts A-C: 6/25/98
444	Waste Combustors	Subpart A:	2/10/00	Subpart A: 2/6/98