

POTW treatment plant. As defined, the term "POTW" also refers to the municipality that has jurisdiction over the discharges to and from such a treatment plant. In today's proposed rule, the Agency proposes to revise the definition of POTW in Part 122 so as to be consistent with the more commonly understood definition located in Part 403.

The Agency's intention is to simplify and clarify, though EPA recognizes that any change may create unanticipated confusion. The Agency solicits comments on effects on conforming the Part 122 definition with the Part 403 definition. Specifically, the Agency is interested in the extent the change would affect: implementation of the Combined Sewer Overflow policy; regulatory consideration of sanitary sewer overflows; and implementation and applicability of the NPDES and pretreatment programs to sewerage collection systems that are not owned/operated by the owner/operator of the treatment plant to which collected waste waters are transported.

The Agency proposes to revise whole effluent toxicity testing requirements found in the existing POTW permit application regulations at § 122.21(j). Under existing § 122.21(j) (1)–(3), a POTW must provide the results of whole effluent biological toxicity testing as part of its NPDES permit application, if the POTW has a design flow equal to or greater than one million gallons per day; if it has (or is required to have) an approved pretreatment program; or if it is required to report by the Director (NPDES State Program Director or EPA Regional Administrator). The Agency proposes to revise this requirement to reflect Agency guidance and policy, as well as practical experience in implementing existing requirements, as set forth at proposed § 122.21(j)(4).

The Agency proposes to change the pretreatment requirement for local limit calculations from an application requirement to a permit requirement. Under existing § 122.21(j)(4), any POTW with an approved pretreatment program must provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1). The existing provision requires that the local limits evaluation be done prior to permit issuance. This has generated feedback from States and municipalities that it would be better to require the evaluation after permit issuance, so as to avoid the need for a second technical evaluation if the POTW's permit limits are revised in the new permit. In response to these concerns, the Agency proposes to change this from an application requirement to a POTW

pretreatment program requirement, at proposed § 403.8(f)(4)(B).

C. EPA Proposes Form 2A for POTWs to Replace Standard Form A and Short Form A

Today EPA proposes a new NPDES application form, Form 2A, for POTWs. Currently, POTWs may be required to submit one of two forms, depending on the size of the POTW. While both of these forms are approved Federal forms, the NPDES regulations do not require use of the forms by POTWs when applying for a permit. Standard Form A is intended to be used by all POTWs with a design flow equal to or exceeding one million gallons per day. Standard Form A contains questions about the facility and collection system, discharges to and from the facility (including information on some specific pollutant parameters), and scheduled improvements and schedules of implementation. Short Form A is intended for use by all POTWs with a design flow of less than one million gallons per day. Short Form A contains only fifteen questions of a summary nature, and asks for virtually no information on specific pollutants. Many States use one or both of the Federal forms, but a number of States have developed State forms that request information not included on the Federal forms.

EPA proposes to replace both Standard Form A and Short Form A with a single Form 2A, subdivided into two parts, titled "Basic Application Information" and "Supplemental Application Information". Basic application information would include information about the collection system and the treatment plant, general information concerning the types of discharges from the treatment plant, identification of outfalls, certain effluent characteristics, and scheduled improvements. The Agency believes that a separate short form for all minor POTWs is no longer appropriate, because in order to establish adequate permit limits, information such as that mentioned above must be collected from all POTWs, regardless of size.

On the other hand, the Agency recognizes the need to be selective in requiring further additional information. For this reason, the Agency has divided the proposed form into two parts. To limit the reporting burden for smaller POTWs without significant industrial contributions, EPA proposes to require effluent monitoring data for 17 parameters from POTWs with design flows less than one million gallons per day (mgd) and without pretreatment programs. These 17 parameters consist

mostly of conventional and nonconventional pollutants. Larger POTWs and pretreatment POTWs, by comparison, would be required to report effluent monitoring data for metals and organic compounds as well as the 17 parameters required for smaller POTWs. Thus, the Basic Application Information part of Form 2A would require reporting on those parameters required of all POTWs, while the Supplemental Application Information part of the form would be used by applicants providing data on toxic pollutants (i.e., larger POTWs and pretreatment POTWs). Similarly, the Supplemental Application Information part of Form 2A is intended to be used by applicants required to provide the results of whole effluent toxicity tests, applicants with significant industrial users, and applicants with CSOs.

The Agency also invites comment on requiring use of the form itself. As explained previously, EPA conducted significant public outreach to design an application form that is easy to use, including outreach on the form itself. Use of the form would provide all of the information requested in the proposed application regulations, whereas modification of the form may result in failure to provide information to be required in the proposed regulations. On the other hand, EPA seeks to provide maximum flexibility by "streamlining" procedures for permit development. The Agency seeks comment on whether requiring use of the form would interfere with streamlining permitting procedures.

D. Applicability of Form 2A to Privately Owned and Federally Owned Treatment Works

As in the case of existing Standard Form A and Short Form A, EPA proposes that Form 2A and the application requirements at § 122.21(j) be required only for POTWs. However, the Agency proposes that the Director have the discretion to use the proposed form for treatment works that are not POTWs. As previously discussed, the NPDES program has evolved considerably since Standard Form A and Short Form A were promulgated in 1973, and now embraces facilities that operate similarly to POTWs but which do not meet the regulatory definition of POTW. Although not owned by a State or municipality, such facilities nevertheless receive predominantly domestic wastewater, provide physical and/or biological treatment, and discharge effluent to waters of the United States. Such facilities include Federally owned treatment works (FOTWs) and privately owned treatment