

US EPA ARCHIVE DOCUMENT

Fact Sheet on EPA's Tentative Decision on the renewal of a CWA 301(h) variance for the Northern District Sewage Treatment Plant

January 5, 2009

I. ACTION

The U.S. Environmental Protection Agency (EPA) is issuing a Tentative Decision Document (TDD) to deny an application from the Guam Waterworks Authority (GWA) for renewal of its variance from full secondary treatment under section 301(h) of the Clean Water Act for its ocean discharge from the Northern District Sewage Treatment Plant. EPA has tentatively concluded this treatment plant does not qualify for a renewed variance. A public comment period on this TDD is being held through February 27, 2009.

II. FEDERAL WASTEWATER TREATMENT REQUIREMENTS

Across the United States, municipal wastewater treatment plants receive and treat sewage and other wastewater collected from homes, businesses, and industries. These plants are designed to treat wastewater prior to reuse or discharge to streams, oceans, or the ground. There are two basic stages in the treatment of municipal wastewater: **primary** and **secondary treatment**, although more advanced treatment (such as tertiary) is becoming increasingly common.

Primary treatment screens out large objects (such as rags), removes grit (such as cinders, sand and small stones), and allows the wastewater to settle (where objects that float, such as sticks, are skimmed off the surface, and materials that sink are removed from the bottom). Primary treatment removes at least 30% of total suspended solids (TSS), which includes silt and other particles, and at least 30% of biochemical oxygen demand (BOD), a measure of organic material in the water.

When secondary treatment is used, wastewater receives primary treatment and is then exposed to microorganisms (such as bacteria). Different biological treatment techniques allow the microorganisms to consume most of the waste's organic matter. The microorganisms are then removed prior to discharge. The definition of secondary treatment includes removal of at least 85% of TSS and BOD.

In 1972, Congress passed the Federal Water Pollution Control Act amendments, which required Publicly Owned Treatment Works (POTWs) to achieve secondary treatment by 1977. In 1977, Congress added section 301(h) to the Clean Water Act (CWA), which allowed the EPA, on a case-by-case basis, to grant variances from secondary treatment requirements.

The CWA specifies criteria the discharger must meet to receive a variance from secondary treatment under section 301(h) of the CWA. These criteria include requirements to:

GWA is constructing a new outfall which will discharge into the Philippine Sea off of Tanguisson Point at a depth of 42.6 m (140 ft). GWA projects the outfall to be completed in 2009. EPA based its tentative decision on the design of the new outfall. The daily flow through the plant averaged 10.6 million gallons per day (MGD) in 2007, though flow is projected to increase to an average of 12 MGD by 2013.

The Northern District STP is currently operating under a permit EPA originally issued in June 1986, which has been administratively extended since its expiration in June 1991. This permit contained a 301(h) variance allowing for less than secondary treatment. GWA submitted a section 301(h) application for renewal of its variance on December 28, 1990. Between 1991 and 1997, EPA required GWA to submit additional information to supplement its renewal application. However, GWA failed to provide sufficient information for EPA to conclude the application met the 301(h) criteria. As a result, EPA issued a tentative decision on April 4, 1997, denying the re-issuance of a 301(h) variance to GWA. In response to a proposal by GWA to extend its outfall, EPA then allowed the discharger to submit a revised application, which was received on March 27, 1998. This revised application was incomplete. GWA submitted schematics and additional details of the proposed outfall in 2001. EPA's Tentative Decision is based on this proposed outfall discharge and the information submitted to date by GWA.

IV. EPA'S REVIEW OF GWA'S APPLICATION FOR 301(h) VARIANCE RENEWAL

EPA's review of GWA's application for a renewed variance from full secondary treatment included data provided by GWA on the actual wastewater discharged at the present outfall location, as well as EPA's predictive modeling for the proposed outfall location and discharge.

Based on its review, EPA has tentatively concluded that the proposed discharge from the Northern District STP's extended outfall will not meet several of the CWA section 301(h) criteria, including:

- The discharge does not meet the mandatory minimum standard of primary treatment;
- GWA has not demonstrated the discharge will attain or maintain water quality to allow recreational activities in and on the water;
- GWA has not demonstrated the discharge will attain or maintain water quality to allow protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife;
- The applicant's monitoring data is insufficient to demonstrate compliance with Guam water quality standards;
- The applicant has not developed a program to control toxic pollutants from non-industrial sources.

Some of the most significant issues concerning the Northern District STP's failure to meet the section 301(h) criteria are described below.

A. Failure to Achieve Minimum Standard of Primary Treatment

Federal law requires that facilities operating under a CWA 301(h) variance from secondary treatment requirements must still achieve primary treatment of wastewater received. Primary treatment is defined as a minimum of 30% removal of BOD and TSS, as described above. Monitoring data indicate the Northern District Sewage Treatment Plant has not consistently removed 30% of the BOD and TSS entering the plant. Therefore, the applicant has not demonstrated the ability to comply with the minimum requirement of primary treatment.

B. Failure to Meet Guam Water Quality Standards

The level of treatment proposed by GWA would not result in attainment of the standards for bacteria established by GEPA to protect recreational activities such as swimming. Secondary treatment would remove additional bacteria and make additional disinfection more effective.

In evaluating whether the proposed discharge from the Northern District STP will meet water quality standards protecting marine organisms, EPA evaluated the proposed discharge with respect to Guam standards established to protect indigenous aquatic life. GWA has not collected the data needed for EPA to support this evaluation.

C. Failure to Provide Required Information

By failing to collect and provide the necessary data, GWA has not demonstrated the Northern District STP can meet GEPA standards and CWA requirements. For example, EPA has not received monitoring data on nutrient discharges from Northern District STP since 1989.

As part of the conditions of its current 301(h) variance for Northern District STP, GWA was required to demonstrate the discharge complies with water quality standards by conducting monitoring of the ocean waters which receive the discharge. GWA failed to conduct and submit this monitoring for many of the required parameters. EPA therefore concluded that GWA has failed to demonstrate compliance with water quality standards intended to protect the quality of the receiving waters.

V. CONCLUSION AND NEXT STEPS

EPA, upon review of GWA's application for a renewed variance from full secondary treatment at the Northern District STP, has tentatively concluded the CWA 301(h) criteria have not been met. EPA's TDD documenting this conclusion can be found on the EPA Region 9 website <http://www.epa.gov/region09/water/npdes/pubnotices.html>, and is available for public comment through February 27, 2009. A public hearing on the tentative decision will be scheduled based on input from the community. At the completion of this public comment period, EPA will consider all public comments before making a final decision on whether the Northern District STP meets the criteria for receiving a renewed variance from full secondary treatment requirements.