

To: Members & Affiliates
From: National Office
Date: June / July 1999

This *Regulatory Update* provides an overview of relevant regulatory issues current to **August 13, 1999**. The *Regulatory Update* is organized by general subject and includes the following topics of information:

- ◆ Proposed and Final EPA Rules - Notices
- ◆ Regulatory Policies, Reports, Guidance Documents and Meetings
- ◆ Pertinent Federal Register Notices
- ◆ Related Items of Interest

Recent regulatory action is *italicized*.

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AMSA MEETINGS SCHEDULE

1999 Meetings

- September 23-24, 1999 **AMSA Board/Fall Meeting**
Key Bridge Marriott - Arlington, Virginia
- November 3-5, 1999 **AMSA/EPA Pretreatment Coordinators' Workshop**
Sheraton Dallas Park Central - Dallas, Texas
- November 18-19, 1999 **AMSA/AMWA Legal Affairs Seminar**
Westin Francis Marion Hotel - Charleston, SC

2000 Meetings

- February 1-4, 2000 **AMSA Winter Conference**
Hyatt Regency Albuquerque - Albuquerque, New Mexico
- May 20-24, 2000 **AMSA National Environmental Policy Forum & 30th Annual Meeting**
Marriott at Metro Center - Washington, DC
- July 18-21, 2000 **AMSA Summer Conference**
The Camberley Brown - Louisville, Kentucky
- November 14-17, 2000 **AMSA/EPA Pretreatment Coordinators' Workshop**
Double Tree Hotel at Reid Park - Tucson, Arizona

For more information on AMSA's conferences and on-line registration, visit AMSA's web site *Clean Water on the Web* at <http://www.amsa-cleanwater.org/mtgs/mtgs.htm>.

Regulatory Quick Reference Sheet

<i>Rule</i>	<i>Proposal</i>	<i>Final Date</i>	<i>Current Status</i>
<i>AIR QUALITY</i>			
▶ POTW MACT Standards-Section 112	12/98	10/99	Proposed Rule
▶ Industrial Combustion Coordinated Rulemaking-Section 129	11/99	11/00	
▶ Sewage Sludge Incinerators - Section 129	11/99	11/00	Notice of Addition Info.
▶ Risk Management Plan - Section 112 (r)	6/96	6/21/99	Implementation Phase
▶ Integrated Urban Air Toxics Strategy	9/98	7/99	
<i>BIOSOLIDS</i>			
▶ NPDES Permit Application Requirements for POTWs, Form 2S	12/95	8/99	
▶ Amendments to Round I Final Sewage Sludge Use or Disposal - Phase I	10/95	9/99	Internal EPA Review
▶ Amendments to Round I Final Sewage Sludge Use or Disposal - Phase II	12/99	3/00	
▶ Amendments to Round II Final Sewage Sludge Use or Disposal	12/99	12/01	
<i>NPDES PERMITS</i>			
▶ NPDES Electronic Reporting	7/99	5/00	Proposed Rule
▶ NPDES Streamlining - Round II	12/96	7/99	Proposed Rule
▶ NPDES Permit Application Requirements for POTWs, Form 2A and 2S	12/95	8/99	
<i>PRETREATMENT & HAZARDOUS WASTES</i>			
▶ Effluent Guidelines - Centralized Waste Treatment	repropose 1/99	8/99	Proposed Rule
▶ Effluent Guidelines - Pork & Poultry Feedlots	12/99		Develop Farm Model
▶ Effluent Guidelines - Metal Products and Machinery	10/00	12/02	
▶ Effluent Guidelines - Iron & Steel	10/00	4/02	Stakeholder Meetings
▶ Effluent Guidelines - Industrial Laundries	12/97	6/99	Proposed Rule
▶ Effluent Guidelines - Transportation Equipment Cleaning	6/98	6/00	Proposed Rule
▶ Effluent Guidelines - Landfills	2/98	11/99	Proposed Rule
▶ Effluent Guidelines - Industrial Waste Combustors	2/98	11/99	Proposed Rule
▶ Streamlining Pretreatment Program Requirements	7/99	6/00	Proposed Changes
<i>WATER QUALITY</i>			
▶ Test Method for Analysis of Mercury - Method 1631	5/98	6/99	Final
▶ Water Quality Standards Regulation	9/99	9/00	Proposed Rule
▶ Streamlining 301(h) Waiver Renewal Requirements	8/99	2/00	
▶ Water Quality Planning Regulations (TMDLs)	9/99	11/99	
▶ Ambient Water Quality Criteria - Human Health Methodology	8/14/98	3/00	
▶ Freshwater Ammonia Criteria Revisions	8/18/98		Interim Final
<i>WET WEATHER</i>			
▶ Stormwater Phase II	1/9/98	10/99	Proposed Rule
▶ Sanitary Sewer Overflows	5/00		

EPA Evaluating Section 129 Rulemaking for Sewage Sludge Incinerators

Background: On January 14, 1997, EPA published a notice of additional information (NAI) under Section 129 of the Clean Air Act (CAA) establishing new source performance standards and emission guidelines for new and existing solid waste incineration units including units that incinerate municipal sewage sludge. Section 129 requires EPA to promulgate standards and guidelines, for new and existing sources, which include numerical emission limitations for the following substances: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. In addition, the standards and guidelines are to include requirements for emissions and parameter monitoring and provisions for operator training and certification. On March 17, 1997, AMSA submitted comments in opposition to EPA's Office of Air & Radiation proposal to subject SSIs to the same regulations as solid waste incinerators.

Status: AMSA has worked closely with EPA to consider AMSA's opposition to regulate SSIs under Section 129. In response to the January 1997 NAI, EPA has gathered data on SSIs from the permit compliance system (PCS) database, information from the regions on Part 503 permits, and source test data from 97 incinerators. EPA and several AMSA representatives, visited several test sites in PA and NJ to assess various controls in place at both multiple hearth and fluidized bed incinerators. EPA stated that it will most likely use a technological approach to establish emission levels based on performance of the top 12 percent of control devices in place to determine the maximum achievable control technology (MACT) standard for SSIs under Section 129. EPA's Offices of Air and Water held an internal meeting on March 18, 1998 to finalize plans for addressing SSIs. EPA requested the identity of several AMSA member agencies that submitted dioxin data as part of the 1994 Dioxin Assessment Peer Review. Those agencies were contacted and most have given the National Office permission to release their names to EPA. In April, 1998 EPA released the "Inventory of Sources of Dioxin in the United States." To order a copy of this report, contact the ORD Publications Agency at 513/569-7562. EPA has hired Battelle and Pacific Environmental Services to conduct testing at three POTWs this summer to determine co-planar polychlorinated biphenyls(PCBs) emissions from biosolids incinerators. In addition, EPA and its contractors will conduct air emissions modeling to determine the impact of dioxin, dibenzofurans, and co-planar PCBs emissions from biosolids incinerators using a Most Exposed Individual scenario. Based on preliminary information collected by EPA, the Agency is uncertain whether emissions from SSIs warrant further control under Section 129. *The Agency plans to announce its proposed strategy by November 1999.* CONTACT: Mark Hoeke, AMSA 202/833-9106, or Gene Crumpler, EPA 919/541-0881.

EPA to Finalize POTW MACT Standard in October 1999

Background: On July 16, 1992, as required by the Clean Air Amendments of 1990, EPA published a list of industrial source categories that emit one or more of listed hazardous air pollutants. POTWs were among the list of industrial categories considered as "major" sources (those that have the potential to emit 10 tons/year or more of a listed pollutant or 25 tons/year or more of a combination of pollutants). EPA is required to develop standards for these sources that will require the application of stringent controls, known as maximum achievable control technology (MACT). The POTW promulgation date for the MACT Standards was established for May 1999.

Status: The POTW MACT proposed rule was published in the December 1, 1998 Federal Register. In the notice, EPA did not propose any standards for existing POTWs or wastewater collection systems due to lack of data on the amount of HAPs resulting from these systems. New or reconstructed facilities that are major sources of HAPs would be subject to these standards, however. In addition, the proposed standards would require each new or existing POTW that treats

specific industrial waste streams from an industrial user, for the purpose of allowing that industrial user to comply with another National Emission Standard for Hazardous Air Pollutants (NESHAP) to meet the treatment and control requirements of the relevant NESHAP. The proposal was distributed via Regulatory Alert 98-23; AMSA submitted comments to EPA on January 15, 1999. AMSA's major recommendations focused on allowing models other than WATER8 be used to estimate air emissions, allow use of direct emissions testing in situations where models estimate a facility to be a major source, and allow 600/8000 series analytical methods for validation. The full text of AMSA's comments are posted on the Association's web page. Although the legal deadline for promulgating the final rule was set for May 15, 1999, EPA published a direct final rule in the April 16, 1999 Federal Register extending the date to October 15, 1999. CONTACT: Mark Hoeke, AMSA 202/833-9106, or Elaine Manning, EPA 919/541-5499.

EPA Finalizes Integrated Urban Air Toxics Strategy in July

Background: EPA's draft Integrated Urban Air Toxics Strategy to comply with sections 112(k), 112 (c)(3), and 202 (1) of the Clean Air Act was released on September 14, 1998. The strategy outlines EPA's plans to address health impacts from both stationary and mobile sources in urban areas. The strategy includes a draft list of 33 hazardous air pollutants (HAPs) judged to pose the greatest potential threat to public health in the largest number of urban areas. Thirty of these HAPs are from 34 types of area sources, including publicly owned treatment works (POTWs). The strategy also includes a schedule for addressing remaining risks from air toxics by setting new standards for categories of small, stationary sources not targeted under the agency's existing air toxics program. These area sources would face new requirements for cutting air toxics by 2009, with some rules taking effect as early as 2005.

The new strategy will have an impact on POTWs. Area sources are small stationary sources of air toxics which emit less than 10 tons per year of any one HAP or less than 25 tons per year of a combination of HAPs. Area sources are not considered major under the Clean Air Act and not subject to existing maximum achievable control technology (MACT) standards under section 112 (d) of the statute. According to EPA, area sources account for 34 percent of air toxics emissions and mobile sources (cars, trucks, etc) account for 42 percent. Over the past five years, AMSA has been working closely with EPA to successfully demonstrate that POTWs are not major sources of HAP emissions (potential to emit 10 or more tons of any single HAP per year, or 25 or more tons/year of any combination of HAPs). AMSA submitted comments on November 30, 1998 outlining three points. Firstly, many of the goals and objectives of the draft strategy could be addressed concurrently while EPA is working on the 112(d) POTW MACT standards. Second, the proposed additional regulation must be based on updated data, and finally, that insufficient attention is being focused on mobile sources and real time monitoring.

Status: EPA released its final Integrated Urban Air Toxics Strategy on July 6, 1999. The strategy identifies a list of 33 HAPs judged to pose the greatest potential threat to public health in the largest urban areas. Thirty of these HAPs are from 29 types of area sources, including POTWs. The Strategy by itself does not automatically result in regulation or control of emissions. The strategy outlines actions to reduce emissions of air toxics and to improve EPA's understanding of the health risks posed by air toxics in urban areas. Many of the activities identified in the Strategy will require public notice and comment. EPA has indicated that it will work with a number of stakeholder groups such as AMSA later this year to develop national assessments of the risks from air toxics and the materials to communicate the findings to the public. CONTACT: Mark Hoeke, AMSA 202/833-9106.

EPA Developing MACT Standards for Combustion Devices

Background: EPA is developing National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) for certain combustion sources under the Industrial Combustion Coordinated Rulemaking (ICCR) process using an advisory committee consisting of a Coordinating Committee and various workgroups. The ICCR process includes several types of combustion devices operated by AMSA members which utilize digester gas

including boilers, Reciprocating Internal Combustion Engines (RICES), Combustion Turbines (CTs), and very likely waste gas flares (under the heading of incineration). Members of AMSA's Air Quality Committee are represented on the Coordinating Committee and work groups for boilers, RICES, CTs, incinerators and the source testing workgroup.

Status: In the summer of 1997, EPA conducted a limited data gathering survey to support development of regulations for the combustion devices. Due to concerns that the combustion devices operating at POTWs will be considered with all similar combustion categories, AMSA conducted a survey of the membership to collect both data inventory and emission data for combustion devices. A major concern was that combustion control devices applicable for burning of natural gas may get applied to the combustion of digester gas, which past experience at several POTWs has shown to be either technically infeasible or not cost-effective. The survey results, which were submitted to EPA in late September 1997 indicated that very few AMSA member agencies have conducted emissions testing for hazardous air pollutants (HAPs) and criteria pollutants. The FACA was discontinued after September 20, 1998. Studies are currently being conducted to evaluate, test, and compare formaldehyde emissions from several classes of engines burning digester gas using the Fourier Transform Infrared (FTIR) spectroscopy and dinitrophenyl hydrazine methods to determine if a follow up survey of the membership is warranted. Preliminary data indicate that several orders of magnitude of formaldehyde emissions from digester fired engines may result using this new method that was developed for natural gas fired engines. An unsolicited proposal was submitted to WERF to assess validation of the FTIR method for digester versus natural gas fired engines. This activity is closely linked with EPA's ICCR initiative which will develop proposed MACT standards by November 15, 1999 on a variety of combustion sources such as wastewater boilers, gas turbines, reciprocating engines, and flares. CONTACT: Mark Hoeke, AMSA 202/833-9106

BIOSOLIDS MANAGEMENT

NPDES Permit Application Requirements for POTWs, Form 2S - Final Rule

Background: On December 6, 1995, EPA published a proposed rule to amend NPDES permit application requirements and application forms for POTWs, replacing the existing Interim Sewage Sludge form, which only requires the use of existing data, with a Form 2S, requiring POTWs to analyze biosolids and provide data for ten metals, nitrogen, and phosphorus. The proposed rule also requires those POTWs managing pretreatment programs to analyze for most of the priority pollutants. The proposed rule allows waivers where information is already available to the permitting authority. A copy of the proposal was distributed via *Regulatory Alert RA 96-4* on January 30, 1996. AMSA comments on the proposal were submitted to EPA on March 28, 1996.

Status: *On August 4, 1999, EPA published final NPDES permit application requirements for Treatment Works Treating Domestic Sewage (TWTDS). All TWTDS must submit required data as specified in revised 40 CFR Part 122.21(q) with their permit applications. Applicants for EPA-issued permits must submit applications on an EPA permit application Form 2S. Applicants for State-issued permits must use State forms which must require at a minimum, the information listed in 40 CFR Part 122.21. Applicants will be required to submit monitoring data for pollutants that have 40 CFR Part 503 limits for the applicant's use or disposal method at the time of permit application. Data from a minimum of three samples taken within the previous four and on-half years must be provided. The final regulations were distributed to the membership via AMSA Regulatory Alert RA 99-17.* CONTACT: Mark Hoeke, AMSA 202/833-9106, or Wendy Bell, EPA 202/260-9534.

EPA to Issue Amendments to Part 503 Sewage Sludge Regulation

Background: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulations in two phases. EPA proposed Phase I on October 25, 1995, and suggested additional amendments to the regulations and the General Pretreatment Regulations in order to clarify existing regulatory requirements and provide increased flexibility to permittees and permit authorities. Phase II, Round I will address issues presented by judicial remand of specific requirements in the final rule and modify technical and implementation requirements. The Round II Rule will cover dioxins, dibenzofurans, and co-planar PCBs. EPA has indicated that the Round I Final Sludge Use or Disposal

Status: EPA published in the *Federal Register* on August 4, 1999 its final Round 1, Phase 1 amendments to the 40 CFR Part 503 sewage sludge rule. The amendments provide the regulated community with flexibility in meeting certain Part 503 requirements and make technical corrections to the regulation. The amendments allow the permitting authority to reduce the monitoring frequency after sewage sludge has been monitored for two years, makes the Part 503 incineration requirements self-implementing and provides changes to the Part 403 General Pretreatment Regulations, adding a concentration for total chromium to the list of pollutants eligible for a removal credit if the sewage sludge is land applied. AMSA submitted comments on the proposal in December 1995. The final rule is effective on September 4, 1999. The amendments were distributed to the membership via Regulatory Alert RA 99-16. CONTACTS: Mark Hoeke, AMSA 202/833-9106 or Al Rubin, EPA 202/260-7589.

NRC /EPA Distribute POTW Radioactivity Survey of Biosolids

Background: In early July, 1998, OMB cleared the joint NRC-EPA survey and based on AMSA's recommendations, has required the two agencies to establish a survey review committee, to include Kevin Aiello, AMSA's Pretreatment & Hazardous Waste Committee Vice Chair, and Tom Lenhart with Northeast Ohio Regional Sewer District. The committee will oversee and monitor the results of the survey. In August, 1998 the National Biosolids Partnership approved \$6,000 funding for developing a guidance document to assist POTWs in addressing radioactivity potential in sanitary sewers. In October 1998, the National Biosolids Partnership also approved \$25,000 to study comparative risk assessment of radionuclide exposure from biosolids. The NBP guidance document, "Characterization of Radioactivity Sources at Wastewater Treatment Facilities - A Guidance Document for Pretreatment Coordinators and Biosolids Managers," was distributed via Regulatory Alert RA99-11 in mid-May 1999 to all AMSA members and 500 other wastewater agencies. The guidance document provides information and technical support to POTWs to facilitate participation in the radiation survey.

Status : The Nuclear Regulatory Commission (NRC) and EPA sent questionnaires in late-June 1999 to more than 600 POTWs associated with NRC licensees having the highest potential to discharge radioactive material to the sewer system. Using the information gathered, NRC and EPA will identify approximately 300 POTWs for sampling. The objectives of the joint survey are to: 1) obtain national estimates of high probability occurrences of elevated levels of radioactive materials in biosolids and ash at POTWs; 2) estimate the extent to which radioactive contamination comes from either NRC/agreement state licensees or naturally occurring radioactivity; and 3) support rulemaking decisions by NRC and EPA. The information will be used in developing joint NRC/EPA guidance for POTWs to determine sources of radioactive materials, describe sampling and analysis procedures, and advise whether a response is needed to the presence of radioactive material in biosolids. The *Federal Register* notice and supporting information were forwarded to the membership via Regulatory Alert, RA 97-26. AMSA and WEF also prepared a joint letter encouraging these agencies to collect information on radiation background levels in biosolids and incineration ash and participate in completing the survey form. The sampling program is expected to take a full year to complete. The target date for completing the survey results is in the summer of 2001. The NBP radiation dose modeling report is expected to be completed by the end of October 1999. CONTACT: Mark Hoeke, AMSA 202/833-9106, Bob Bastian, EPA 202/260-7378, or Phyllis Sobel, NRC 301/415-6714.

National Biosolids Partnership Meets in June/July

Background: U.S. EPA, AMSA, and the Water Environment Federation formed the National Biosolids Partnership (NBP) in 1997 to respond to increased public attention about the uses and safety of biosolids land application. With funding from EPA and Congressional sources, the Partnership is aggressively moving forward with the development of a national environmental management system for biosolids to ensure responsible management of biosolids, and to enhance community support for various biosolids management options. The Partnership is comprised of a Management Committee, established to plan and implement Partnership activities, a Steering Committee and an Advisory Committee, to represent a majority of biosolids stakeholders. AMSA Board member, Bob Hite, Denver

Metro Wastewater Reclamation District, serves as chair of the Management Committee. A Steering Committee is chaired by AMSA's Dr. Cecil Lue-Hing.

Status: Several project leaders within the Steering Committee were identified to lead efforts to coordinate the over \$700,000 in EMS-related projects that were issued as requests for proposals for contractor bids. The Sear Brown Group was awarded the contract in April 1999 to proceed with the development of the Manual of Good Practice, which is being coordinated with the Water Environment Research Foundation. *Three additional RFPs were distributed in late May 1999.* A large portion of the increased appropriations request from FY1999 is designed to support pilot testing of the EMS at a number of wastewater agencies throughout the country. An annual report describing the goals and objectives and activities of the NBP was distributed to the membership in late January. *A follow up brochure describing the EMS initiative was distributed to the entire WEF and AMSA membership as an insert to the June 1999 Highlights publication.* A CD-ROM program containing all core Part 503 documents and guidance was distributed at no cost to all AMSA members in April 1999 via Regulatory Alert 99-6. A radioactivity guidance document for POTWs was distributed to the membership and 600 other POTWs via Regulatory Alert RA 99-11 in anticipation of the joint radioactivity survey by the Nuclear Regulatory Commission and EPA in late June 1999. A total of six gap analyses have been conducted with wastewater agencies that are serving as initial volunteers to help implement the EMS initiative. *An additional eight gap analyses will be conducted by the end of summer 1999.* AMSA is also taking a lead in preparing a work plan by late-summer 1999 to develop a "pretreatment success series" brochure based on agency efforts to improve biosolids quality through enhanced pretreatment programs. *The Steering Committee met on June 30-July 1 in Alexandria, VA. Partnership members also met with EPA's state biosolids regulators on June 30 in Potomac, MD. The NBP also filled the positions of EMS Manager and Technical Communications Manager to assist in the administration and coordination of various Partnership projects. The Management Committee will meet July 29-30 in Chicago, IL.* CONTACT: Sam Hadeed, NBP 703/684-7741

Related Items of Interest

☛ *The National Biosolids Partnership will be co-sponsoring two workshops in November 1999. An Animal Residuals Management Conference will be held on November 14-16 in Crystal City, VA. A National Odor Control Workshop will also be held from November 16-18 at the Bolger Center in Potomac, MD. For more information on these workshops and registration materials, contact: Gene DeMichele, NBP Program Director, at 703/684-2438.*

NPDES PERMIT ISSUES

NPDES Permit Application Requirements for POTWs, Form 2A - Final Rule

Background: On December 6, 1995, EPA published a proposed rule to amend NPDES permit application requirements and application forms for POTWs. A copy of the proposal was distributed via *Regulatory Alert RA 96-4* on January 30, 1996. AMSA comments on the proposal were submitted to EPA on March 28, 1996.

Status: *On August 4, 1999, EPA published final NPDES permit application requirements for POTWs. All POTWs must submit required data as specified in revised 40 CFR Part 122.21(j) with their permit applications. Applicants for EPA-issued permits must submit applications on an EPA permit application Form 2A. Applicants for State-issued permits must use State forms which must require at a minimum, the information listed in 40 CFR Part 122.21. The changes consolidate POTW application requirements, including information regarding toxics monitoring, whole effluent toxicity testing, industrial user and hazardous waste contributions, and sewer collection system overflows. The most significant revisions require toxic monitoring by major POTWs (and other pretreatment POTWs) and limited pollutant monitoring by minor POTWs. Applicants will be required to submit the results of no less than three pollutant scans from the previous permit cycle. POTWs that have performed WET analyses at least annually over the past five years prior to the new permit application will not be required to perform additional WET analyses. Applicants that do not have this information will be required to conduct four quarterly effluent WET analyses one year prior to the application. Information on all WET analyses conducted during the previous permit cycle will also be required.* CONTACT: Mark Hoeke, AMSA 202/833-9106, or Wendy Bell, EPA 202/260-9534.

EPA to Drafts Framework to Address Permit Backlog

Background: *In response to concerns from Congressional leaders concerning the extent of the NPDES permit backlog, EPA has drafted a framework to reduce the percentage of expired permits to 10 percent by the end of 2004. The framework was recently discussed at a June 23 meeting with the Association of State and Interstate Water Pollution Control Administrators. A short-term goal of the framework is reduce the backlog of major permits to 20 percent in all States by the end of 1999, and to 10 percent by the end of 2001. To achieve these goals, the framework discusses five strategic initiatives that include short- and long-term actions. These initiatives include: 1) Understanding and Better Defining the Backlog; 2) Examining Permitting Efficiencies and Streamlining Opportunities; 3) Providing Funding and Technical Support for Regions and States; 4) Encouraging Regional and State Leadership; and 5) Improving Data Collection and Management.*

Status: *EPA expects to release a revised draft framework by the end of the summer for public comment. The Agency would like to issue a policy to the Regions and States later this year that would encourage the reduction of the permit backlog in a consistent manner.* CONTACT: Mark Hoeke, AMSA 202/833-9106.

NPDES Streamlining - Proposed Rule

Background: In response to President Clinton's February 21, 1995 Reinventing Government directive, EPA proposed revisions to NPDES requirements in 40 CFR Parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures which do not provide environmental benefits (Round II). Proposed revisions for Round II, as published by EPA on December 11, 1996, include: 1) allowing general permits to cover multiple categories of discharges, thus, increasing the ability of general permits to cover currently unregulated sources, and streamline reissuance procedures of general permits where no changes in permit conditions are anticipated; 2) allowing permit writers not to require permit limits for all effluent guideline listed pollutants under certain circumstances; 3) removal of stormwater group application requirements; 4) streamlining permit terminations procedures; and, 5) revising Part 124 evidentiary hearing procedures.

Status: EPA plans to publish a final rule in by the end of the summer 1999. Work has begun on Round III streamlining and may include (1) additional permit modifications that can be considered minor, and (2) changes to requirements concerning EPA's review of State permits. Other NPDES streamlining efforts are described in more detail in other sections of this Update. CONTACT: Howard Rubin, EPA 202/260-2051.

EPA Expects to Propose Rule on Electronic Reporting in the NPDES Program

Background: EPA expects to propose a rule to allow NPDES reports and other information to be submitted electronically. The proposed rule would establish criteria for electronic reporting and a specific process and conditions for electronic reporting of discharge monitoring reports. The proposal addresses electronic signature, certification, and record keeping requirements that permittees would follow when submitting forms to EPA electronically.

Status: EPA expects to propose this rule in summer 1999. CONTACT: Robin Danesi 202/260-2991

PRETREATMENT & HAZARDOUS WASTE ISSUES

Streamlining Pretreatment Program Requirements - Anticipated Proposed Rule

Background: EPA is considering several simplifying changes to the pretreatment program that would reduce the current burden to POTWs and industrial users including: exclusions or variable requirements for smaller facilities that contribute insignificant amounts of pollutants; clarification of requirements for implementing pretreatment standards; and more flexible reporting, inspection and sampling requirements. AMSA has played an integral part in the development of these proposed changes, working together with EPA in developing issue papers, hosting the 1996 AMSA-Water Environment Federation Pretreatment Streamlining Workshop, and providing comment on EPA's May 1997 draft proposal. While supportive of most of the proposed changes, AMSA has major concerns with EPA's proposed modification of significant noncompliance (SNC) criteria.

In August 1998, AMSA met with the Office of Management & Budget (OMB) to press AMSA's proposed changes to the definition of SNC in EPA's pretreatment streamlining proposal. While AMSA has met with EPA's Office of Enforcement & Compliance Assurance (OECA) to address SNC issues, OECA has resisted taking any further steps on this issue. OMB, however, was very receptive to AMSA's concerns and is interested in ensuring that the rule not create unnecessary burdens on POTWs and is a proponent of streamlining.

EPA held an internal briefing on the package in December 1998 and resubmitted the package to OMB in early January 1999. AMSA will develop specific language that reflects a pattern of SNC for use in defining the criteria for SNC during the review and will encourage its members to support this language in individual agency comments to EPA. In addition, AMSA will propose language to address short term pH excursions below 5 that currently contribute to about 25% of SNC violations. The Committee also requested up to \$10,000 in Technical Action Fund support via the Regulatory Policy Committee to facilitate AMSA's efforts to collect data on short-term pH fluctuations in industrial discharges to wastewater treatment plants. Results of the study are expected to be part of AMSA's official comments to EPA.

Status: On July 22, 1999, EPA formally released proposed regulatory and administrative changes to streamline the national industrial pretreatment program (40 CFR Part 403). The effort is designed to provide administrative changes to reduce the burden on entities regulated under the pretreatment program. AMSA's Pretreatment and Hazardous Waste Committee leadership plans to develop a formal position paper on all of the proposed changes this month and encourages all members to review the proposal and provide any comments by August 25. The position paper will be distributed to the membership in September and AMSA members will be encouraged to attach the paper to their individual comments to EPA. It is imperative that EPA receive numerous comments from AMSA member agencies in support of all of the Association's recommendations on streamlining. CONTACTS: Mark Hoeke, AMSA 202/833-9106, or Jeff Smith, EPA 202/260-5586.

Effluent Guidelines Plan

Background: EPA published its final plans for developing new and revised effluent guidelines which regulate industrial discharges to surface waters and to POTWs in the September 4, 1998 Federal Register. Section 304(m) of the Clean Water Act requires EPA to publish a biennial Effluent Guidelines Plan. In the plan, EPA highlights current effluent guidelines under development, the process for selection of new effluent guideline regulations, and preliminary and ongoing studies.

Status: EPA is conducting studies on confined animal feeding operations, urban stormwater and airport deicing. EPA recently conducted a total petrochemical hydrocarbon (TPH) study for the industrial laundries industry and issued a notice of data availability of the results in the Federal Register on December 23, 1998. The Effluent Guidelines Task Force met in Crystal City, VA on May 4-5 1999. *On July 1, 1999, EPA announced that national standards requiring treatment of wastewater from the nation's 1,700 industrial laundries are not warranted, and that better environmental protection could be accomplished through pollution prevention at the source. AMSA was supportive of this conclusion since most local problems can be resolved by local pretreatment authorities.* Table 1 presents a summary of effluent guidelines currently under development. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Beverly Randolph, EPA 202/260-5373.

Table 1 - Effluent Guidelines Currently Under Development

Category	EPA Contact		Proposal	Final Action
			Consent Decree or actual	Consent Decree
Centralized Waste Treatment	Jan Matuszko	202/260-9126	reproposal 1/99	8/99
Metal Products and Machinery	Shari Zuskin	202/260-7130	10/00	12/02
Industrial Laundries	Marta Jordan	202/260-0817	12/97	7/99
Transportation Equipment Cleaning	John Tinger	202/260-4992	6/98	6/00
Landfills	John Tinger	202/260-4992	2/98	12/00
Industrial Waste Combustors	Samantha Hopkins	202/260-7149	2/98	11/99
Feedlots - Swine & Poultry Subcategories	Eric Strassler	202/260-7120	12/99	12/01
Feedlots - Dairy & Beef Subcategories	Eric Strassler	202/260-7120	12/00	12/02
Oil & Gas Extraction - Synthetic Drilling Fluids	Eric Strassler	202/260-7120	12/98	12/00
Coal Mining- Remining & Western Subcategories	Eric Strassler	202/260-7120	12/99	12/01

AMSA, EPA and Silver Council Cooperative Agreement

Background: In 1997, AMSA, the Silver Council and EPA initiated a cooperative agreement for a demonstration project using the photo processing industry as a model to evaluate the use of alternative compliance mechanisms as a means of controlling wastewater discharges in streamlining local pretreatment limits. The study's objective is to examine combinations of voluntary efforts and regulatory requirements to cost-effectively achieve reductions in the discharge of silver to the environment. The AMSA/Silver Council "Code of Management Practice (CMP) for Silver Dischargers" will be used as the model approach for controlling silver discharges. The CMP is one example of a voluntary effort that can help achieve these reductions while decreasing or avoiding the costs of regulating silver discharge to POTWs and to dischargers. Implementation of the CMP through voluntary cooperation among government and business may enable the use of more flexible regulatory approaches or, in some circumstances, avoid the need for regulation. A total of seven communities are being studied: five cities implementing the CMP as a best management practice; one city using a general permit mechanism; and one using a flow-adjusted concentration-based limit. The 2-year project is being coordinated at a national level by AMSA, The Silver Council, and EPA using a steering team approach. The pilot city agencies include: Hampton Roads Sanitation Districts, Virginia Beach, VA; Passaic Valley Sewerage Commissioners, Newark, NJ;

Massachusetts Water Resources Authority, Boston, MA; City of Columbus, OH; City of San Diego, CA; City of Salisbury, MD; and, City of Jacksonville, FL.

Status: The study is scheduled for completion by December 1999. CONTACT: Mark Hoeke, AMSA 202/833-9106.

AMSA/EPA to Sponsor Pretreatment Coordinators' Workshop in November

Background: The sixth annual joint AMSA-EPA Pretreatment Coordinators' Workshop will be held November 3-5, 1999 at the Sheraton Dallas Park Central Hotel in Dallas, Texas. This year's event will also mark the 10th anniversary of AMSA sponsorship of a pretreatment coordinators' workshop for its membership. This joint forum will bring together considerable expertise from local and state governments, and EPA regions and Headquarters to discuss opportunities to enhance the current and future direction of the national pretreatment program. Discussion topics for this year's workshop include EPA program updates from the Offices of Water, Enforcement & Compliance Assurance, and Reinvention, AMSA updates, recognition of national pretreatment program awardees, breakout sessions on regional issues and regulation and characterization of commercial/light industry sources, how to prepare for a criminal case as a witness, criminal investigation case studies, mandatory state pretreatment penalty requirements, overview of the project XL initiative, and looking towards pretreatment in the new millennium.

Status: Workshop information will be sent to the membership via a Member Update in mid-August. CONTACT: Paula Dannenfeldt, AMSA 202/833-4654.

WATER QUALITY ISSUES

Nutrient Criteria Development

Background: On June 18, 1998, in response to an Clinton administration directive to implement a criteria system for nitrogen and phosphorus runoff for lakes, rivers, and estuaries by the year 2000, EPA released a national strategy outlining the process and approach for the development of numeric criteria for nutrients and adoption of nutrient provisions of state water quality standards. Under the approach described in the new nutrient strategy, EPA will develop nutrient guidance documents for various types of waterbodies (e.g. rivers, lakes, coastal waters, and wetlands) over the next several years. States will be able to use these guidance documents and target ranges as they develop numeric criteria for nutrients as part of state water quality standards. States will effectively be required to adopt numerical nutrient criteria into their water quality standards by 2003. The Strategy was transmitted to the membership via *Regulatory Alert RA 98-13*, and is also available on EPA's website: <http://www.epa.gov/ost/standards/nutrient.html>

Status: EPA has formed a National Nutrient Team to guide the nutrient criteria development process and has also formed Regional Nutrient Teams in each EPA region. EPA is currently collecting data from national databases (e.g., STORET, National Ambient Water Quality Assessment data) to determine reference nutrient conditions in various ecoregions. Regional nutrient teams are discussing the process for developing regional nutrient criteria based upon EPA's data collection effort. AMSA, via *Regulatory Alert RA 99-8*, has solicited membership input into a draft AMSA position statement on EPA's nutrient strategy. As discussed in the position statement, EPA's current approach to nutrients has the potential to redefine treatment standards for POTWs and require costly nutrient removal processes. AMSA would like to respond to EPA's nutrient development approach with a coordinated effort by AMSA municipalities at both the regional and national level. To advocate the position of municipalities, AMSA has urged members to contact their Regional Nutrient Coordinators and become involved at the Regional level. In addition, AMSA has developed a Nutrients Workgroup under the auspices of the Water Quality Committee.

On June 10, 1999, EPA held a national public stakeholder meeting in Crystal City, Virginia to discuss the development of national nutrient criteria. AMSA expressed serious concerns with EPA's efforts to promulgate national nutrient criteria. At the meeting, AMSA's Water Quality Committee Chair Norm LeBlanc faulted the agency for moving forward nutrient standards with little assurance that nonpoint sources, the primary source of nutrient loadings, will be adequately addressed. POTWs could bear the brunt of nutrient reductions while nonpoint sources continue unabated. LeBlanc also urged the agency to ensure that the criteria allow room to distinguish between nutrient enrichment and nutrient impairment. The nutrient ranges that EPA is considering would be more appropriate as guidelines that trigger further study of a water body to determine if an impairment exists. AMSA cautioned EPA that numeric nutrient standards could dramatically expand the number of waters targeted for total maximum daily loads and saddle municipal dischargers with a disproportionate share of loading reductions. *AMSA's Nutrients Workgroup is tracking the development of nutrient criteria closely, and has received \$50,000 from AMSA's Board of Directors to hire technical support in reviewing EPA's forthcoming technical guidance documents. The workgroup also hopes to provide with a recommended alternative approach to addressing nutrient impairment issues.* CONTACT: Bob Cantilli, EPA 202/260-5546 or Mark Hoeke, AMSA 202/833-9106.

TMDL Revisions to be Proposed in in Late Summer

Background: Under CWA Section 303(d), states are required to identify waters in which technology-based effluent limitations are not sufficient to meet water quality-based standards, and requires states to develop TMDLs for these waters which will ensure that applicable water quality standards are met. Under Section 303, EPA must develop TMDLs when states fail to do so. In November 1996, EPA convened a federal advisory committee of stakeholder interests to develop recommendations concerning needed changes to the agency's TMDL program implementation strategy, as well as TMDL-related policies, guidance, regulations and priorities. AMSA has participated in the advisory committee and has provided input to EPA regarding potential impacts of regulatory and policy changes to POTWs.

Status: *A copy of EPA's forthcoming proposed rule revising the Total Maximum Daily Load (TMDL) program, or as it is officially dubbed, "Proposed Revisions to the Water Quality Planning and Management Regulation - 40 CFR Part 130" was distributed to the membership via AMSA Regulatory Alert RA 99-12. A second part of the TMDL package has not yet been released and will propose changes to the NPDES permitting regulations at 40 CFR Part 122 and 123, as they relate to TMDLs. It is expected that both regulatory proposals will be released together in the Federal Register sometime in late summer 1999.*

As has been reported in AMSA publications from earlier this year, EPA describes the proposed changes to 40 CFR Part 130 as "aggressive," requiring the 303(d) list to serve as a basis for listing all impaired waters, including those waters impacted solely by nonpoint sources, and requiring the states to list threatened waters. EPA proposes that the 303(d) list be "segmented" into four separate lists: 1) waters impaired by pollutants requiring TMDLs; 2) waters impaired by pollution that do not require the development of a TMDL; 3) waters where TMDLs have been completed, but where water quality is still impaired; and 4) waters where best practicable technology will result in the attainment of the waterbody and where no TMDL is required.

Waters impaired by pollutants requiring TMDLs (Part 1 of the list) are to be prioritized using a high, medium, or low priority ranking. High priority waters include: 1) those waters designated for public drinking water supply where the drinking water use is impaired or threatened; and 2) species listed as threatened or endangered under Section 4 of the Endangered Species Act are present in the waterbody. The state may also consider the presence of sensitive aquatic species and other factors, such as historical, cultural, economic, and aesthetic uses of the waterbody when assigning high priority waters.

EPA also will propose modification of the listing cycle, and will solicit comments on two, four, and five year time

frames. EPA expects to move the forthcoming listing cycle from the currently scheduled April 1, 2000 to October 1, 2000 at the earliest, providing at least six months from final regulation and guidance promulgation for states to develop new 303(d) lists.

EPA proposes to require states to submit a schedule for the development of TMDLs for all waterbody and pollutant combinations on Part 1 of the 303(d) list. The proposal requires states to establish a schedule for completing TMDLs as expeditiously as practicable, but no later than 15 years from the date of initial listing. EPA also details its expectations for what constitutes an approvable TMDL by outlining 10 minimum elements that must be included in any state TMDL submittal. The minimum elements include, but are not limited to: identification of the sources of the pollutant causing impairment, point and nonpoint source loading allocations, a margin of safety, consideration of seasonal variation, an allowance for future growth, and an implementation plan for attaining water quality standards.

The proposal requires that states assemble and consider all existing and readily available data and information when developing lists of impaired waterbodies including Clean Water Act (CWA) section 305(b) state water quality assessments, CWA section 319 nonpoint source assessments, and drinking water source water assessments under section 1453 of the Safe Drinking Water Act. In addition, states are required to develop a methodology that explains how data and information will be used to determine which waterbodies to include on the list and how priority rankings will be determined. Each state will be required to take public comment on its methodology. Among other comments sought, EPA will be seeking comment on whether the regulation should more specifically define national minimum criteria or thresholds that define waterbodies that are impaired or threatened.

The proposal requires that states list waters that are impacted solely by nonpoint sources and develop TMDLs for those waters impacted by pollutants. EPA defends this position in the preamble of the rule by highlighting that section 303(d)(1)(A) of the CWA does not expressly exclude nonpoint source impacted waterbodies from the TMDL requirements of section 303(d)(1)(C). EPA also expresses its “belief that section 303(d) applies to nonpoint sources is consistent with the Clean Water Act’s definition of pollutant,” and goes further to state that, “an examination of the Act ‘as a whole’ supports an interpretation that Congress did not intend to limit the term ‘pollutant’ to point sources.”

In addition to the inclusion of nonpoint-source-only impacted waters to the TMDL lists, EPA would also require that implementation plans for TMDLs must include “reasonable assurance” that both point and nonpoint source load reduction activities will be implemented. For point sources, reasonable assurance means that NPDES permits will be consistent with wasteload allocations contained in the TMDL. For nonpoint sources, reasonable assurance means that nonpoint source controls are specific to the pollutant of concern, implemented according to an expeditious schedule, and supported by reliable delivery mechanisms and adequate funding. Some examples of reasonable assurance for nonpoint source implementation activities that EPA provides include: state regulations or local ordinances, contracts, memoranda of understanding, or contracts. While the proposal boldly addresses the issue of nonpoint source inclusion in the TMDL process, the proposed revisions do not appear to address the issue of appropriate allocation methodologies among point and nonpoint sources.

There are also several NPDES issues that EPA hopes to address in a forthcoming proposal including:

1) provisions to allow permits to be re-issued or extended in cases where they are not consistent with the TMDL allocation or for EPA to intervene if the State doesn’t act to issue an expired permit; 2) expanded designation authority so animal feeding operations and aquaculture/silvaculture operations can be designated as point sources; and 3) required offsets for new or significantly expanded discharges where no TMDL has been established.

AMSA’s Water Quality Committee will be taking a lead on reviewing the proposal. A workgroup of the Water Quality Committee is expected to be formed to develop comments on the rule. If you would like to be part of this workgroup or would like to provide comments, please contact Mark Hoeke, AMSA 202/833-9106, or mhoeke@amsa-cleanwater.org. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Don Brady, EPA 202/260-5368.

AMSA Submits Intervenor Brief in Nonpoint Source TMDL Lawsuit

Background: On April 12, 1999, Guido and Betty Pronsolino, the Mendocino County Farm Bureau, the California Farm Bureau and the American Farm Bureau Federation sued the U.S. Environmental Protection Agency, ("EPA") in the U.S. District Court for the Northern District of California, seeking, among other things, to set aside, enjoin and declare unlawful EPA's listing of the Garcia River under Section 303(d) of the Federal Water Pollution Control Act ("CWA"), 33 U.S.C. § 1313(d). In 1992, EPA had disapproved California's Section 303(d) list because it failed to identify the Garcia River as a water quality limited segment. EPA then identified the Garcia River, under the provisions of Section 303(d)(2), as a water for which water quality standards would not be met after effluent limitations required by the technology based guidelines and requirements of Sections 301(b)(1)(A) and Section 301(b)(1)(B) were imposed. California included the Garcia River on its 1994, 1996 and 1998 Section 303(d)(1) lists.

The source of the impairment on the listed portion of the Garcia River has been identified as nonpoint sources and background deposits of sediments. The sediments are believed to be deposited, in part, as a result of timbering activities in the Garcia River Watershed, where the Pronsolinos own approximately 800 acres of timberland. In 1998, the Pronsolinos obtained a California Timber Management Plan, which serves as a permit to harvest timber in the State, from the California Division of Forestry. The Timber Management Plan requires the Pronsolinos to comply with EPA's March, 1998 total maximum daily load ("TMDL") for the Garcia River. This TMDL restricts the timing of timber harvests to certain months and requires the Pronsolinos to take steps to identify and mitigate certain "controllable" sediment sources in runoff associated with their timber harvests.

Status: *In order to protect the interests of the municipal wastewater community, AMSA's Board of Directors approved a recommendation from AMSA's Legal Affairs Committee to intervene in the Pronsolino lawsuit which has a high potential to set a precedent over EPA's authority to include nonpoint sources in TMDLs. The Board made their determination based on several factors. A key consideration was AMSA's longstanding position that without the inclusion of nonpoint sources, TMDLs will adversely impact municipal permit holders and result in no appreciable water quality improvements. If the court accepts AMSA's petition to intervene, the Association will be assured participation in every stage of the legal process. AMSA's involvement in the process will strengthen the Association's position on nonpoint source pollution and as one of the nation's leading clean water advocates. A petition to intervene was filed with the U.S. District Court on August 2, 1999. CONTACT: Greg Schaner, AMSA 202/296-9836.*

EPA's Water Quality Standards Regulation Revision Process - Anticipated Proposed Rulemaking

Background: On July 7, 1998 EPA published an advanced notice of proposed rulemaking (ANPRM) on water quality standards regulation in the Federal Register (*Regulatory Alert RA 98-15*). The ANPRM requests public comment on EPA's current thinking on possible regulation and policy changes to strengthen and modernize the water quality standards regulation, including facilitating a watershed approach. Six core areas are discussed in the document, including: designated uses, criteria, anti-degradation, mixing zones, wetlands, and independent application. EPA has requested comment on these areas and is also accepting comments on any other aspects of the water quality program.

Status: On January 4, AMSA submitted comments on the EPA's Advanced Notice of Proposed Rulemaking (ANPRM) for revising the national water quality standards regulation. In its comments, AMSA discusses the need for regulatory change. AMSA supports EPA's overall vision that the water quality standards program needs to better promote watershed-based approaches, and emphasizes that changes need to provide flexibility to EPA, states, and the regulated community to target resources. AMSA urges EPA to ensure that regulatory modifications and efforts to encourage involvement of unregulated nonpoint source dischargers do not unfairly lead to a disproportionate increase in requirements on permitted dischargers, due to lack of EPA and state authorities to control nonpoint source pollution. In the comments, AMSA also affirms that many problems associated with attainment of water quality standards, as well as

permitting issues, are associated with inappropriate use designations. AMSA urges that States have the latitude to refine use categories to differentiate between diverse uses, such as swimming vs. wading, which could be protected by very different criteria. AMSA goes further to recommend that States be mandated to refine uses where appropriate, and to perform use attainability analyses for those waters that have been inappropriately designated. Copies of AMSA comments can be obtained on AMSA's Web Site at <http://www.amsa-cleanwater.org> or by contacting the National Office. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Sue Gilbertson, EPA 202/260-9536.

Whole Effluent Toxicity Inter-laboratory Variability Study Initiated

Background: As a result of a recent settlement agreement between EPA and the Western Coalition of Arid States (WESTCAS) concerning EPA's whole effluent toxicity (WET) test method, EPA has agreed to perform an inter-laboratory WET study to assess and validate a recently completed study of test method variability sponsored by WESTCAS. The WESTCAS study quantified the level of biological variability which is intrinsic to whole effluent toxicity test organisms and test procedures. The WESTCAS study attempted to determine the rate of false-positive WET test results on method blank samples containing no toxicants of any kind. Of the sixteen laboratories which participated in the WESTCAS study, 40 percent concluded that the non-toxic sample water was toxic based on reproductive effects. In AMSA *Regulatory Alert RA 98-16*, members were requested to participate in EPA's follow up inter-laboratory WET study. Over 50 AMSA member agencies offered to participate and sponsor a laboratory.

Status: *On July 9, 1999 EPA's contractor for the WET Study, Dyncorp I&ET sent bid proposal packages to all laboratories is requesting the submittal of prequalification and bid response packages by August 2, 1999. Some changes to the study design have occurred since last summer. First, given the high number of labs that have volunteered for fathead minnow, ceriodaphnia and selenastrum testing, EPA has expanded the study to include two levels of participation (the base study design and the extended study design). The base study design will be made up of the nine EPA-sponsored labs and eleven non-EPA-sponsored labs (volunteer or AMSA/WESTCAS sponsored labs). All labs in the base study design (EPA and non-EPA sponsored) will receive four blind test samples per method. The samples will be some combination of whole volume or ampule samples of reference toxicants, industrial and/or municipal effluents, ambient receiving water, and method blanks. The extended study design, which is comprised of all other non-EPA-sponsored labs, will receive three samples in ampules which will be diluted with laboratory water. In addition, laboratory sponsors will now be required to pay for the cost of participation in the study. AMSA sent a notice concerning the status of the study and provided a copy complete bid proposal package to all AMSA/WESTCAS laboratory sponsors on July 12, 1999. CONTACT: Bill Telliard, EPA 202/260-7134 or Mark Hoeke, AMSA 202/833-9106.*

EPA Developing Guidance on Whole Effluent Toxicity (WET) Test Method Variability

Background: *Acute and short-term chronic WET tests are intended to estimate toxicity of wastewaters in order to protect aquatic life. These tests measure the aggregate toxic effects of an effluent to standardized, freshwater or marine plants, vertebrates or invertebrates. The standardized tests are used by regulatory authorities for monitoring both effluents and receiving waters, and for NPDES water quality-based permit limits. When technology-based permit limits are insufficient to protect water quality, a permit may include an effluent limitation for WET if the discharge would cause, have a reasonable potential to cause, or contribute to an instream excursion above a numeric water quality standard for WET or narrative water quality standard. The results of a single test is often used to assess compliance with a permit limit for WET (expressed in terms of acute or chronic toxic units). The criteria are the equivalent of 0.3 toxicity unit (0.3 Tu) for acute toxicity or one toxicity unit (1.0 Tu) for chronic toxicity. WET acute and chronic criteria are adjusted for appropriate dilution for a particular discharge. Currently, the Agency does not specifically adjust or account for analytic variability when determining the need for calculating WET permit limits. EPA indicates that its primary goal of the draft guidance is to provide recommendations on how to identify the critical*

components that contribute to WET test variability and to describe opportunities to minimize WET test variability in the conduct of the tests.

Status: *The Agency plans to conduct a peer review of the draft guidance from September to December 1999. Preliminary reviews of the guidance have not been favorable and WESTCAS representatives indicate that the guidance does not comply with the letter or spirit of the settlement agreement. A copy of the document has been sent to the AMSA Water Quality Committee for its review. Contact: Mark Hoeke, AMSA 202/833-9106.*

EPA WET Policy on Reasonable Potential

Background: To address stakeholder concerns regarding regulatory decisions on whether or not to include whole effluent toxicity (WET) limits into permits (i.e., “reasonable potential determinations”), EPA is currently developing a draft reasonable potential policy with a team of regional and state permit writers. As required by 40 CFR Part 122.44(d), permitting authorities must make a finding on whether there is “reasonable potential” to cause or contribute to an exceedance of an in-stream WET water quality criteria prior to issuance of permit. AMSA has had concerns regarding the implementation of this requirement, as permitting authorities have historically issued WET limits with little data, and without considering the test variability in the decision. EPA’s draft policy is intended to set up a process whereby additional monitoring data is collected for a reasonable potential determination, without imposing a WET limit on the permittee until an evaluation of the additional data is complete.

Status: EPA is currently planning to release a draft guidance document in *summer of 1999*. AMSA’s Water Quality Committee will review the guidance when available. CONTACT: Mark Hoeke, AMSA 202/833-9106.

AMSA Petitions EPA to Revise Great Lakes Wildlife Criteria for Mercury

Background: In AMSA’s September 13, 1993 comments on the proposed Great Lakes Guidance, AMSA challenged the scientific merit of certain approaches used in the derivation of water quality criteria for the protection of wildlife. Among these approaches was the criteria methodology’s use of toxicological effect-threshold data for non-piscivorous wildlife species with exposure parameters for piscivorous wildlife species. Piscivorous species (e.g., eagles, gulls, kingfishers), which evolved eating fish that contained naturally-occurring bioaccumulative substances (e.g., mercury), are highly unlikely to be as toxicologically sensitive to these substances as the non-piscivorous species (e.g., mallards), which did not have such exposures during their evolution. AMSA was also concerned about the use of species sensitivity factors in the proposed wildlife criteria methodology. AMSA noted that using the above-described approach would render the resulting criteria overly conservative. By using the above approach combined with the species sensitivity factor, in essence EPA was saying that piscivorous species are likely to be not only as toxicologically sensitive, but more toxicologically sensitive to mercury than the non-piscivorous species tested. Good science simply did not support EPA’s position. In the final Great Lakes Guidance, EPA elected not to change the derivation approach, and incorporated a threefold interspecies uncertainty factor (Great Lakes Water Quality Initiative Criteria Documents for the Protection of Wildlife: DDT, Mercury, 2,3,7,8-TCDD, PCBs, EPA-820-B-95-008, at 2-14 to 2-15 and Table 2-7). EPA appeared to assume that the application of the interspecies uncertainty factor was necessary in addition to the already illogically conservative derivation approach.

Two years after publishing the Great Lakes Guidance, EPA has itself refuted its own position. In EPA’s December 1997 Mercury Study Report to Congress (“Report to Congress”), EPA admitted that applying the interspecies uncertainty factor to the derivation of avian wildlife criteria for mercury is unjustified. On pages 5-11 to 5-12 of Volume VI of the Report to Congress, EPA stated that “. . . a review of the literature suggests that piscivorous birds possess a greater capability to detoxify methylmercury than do non-piscivorous birds.” On page 4-5 of the same document, EPA stated that “. . . among duck species, mallards possess less capability to detoxify methylmercury than piscivorous mergansers

and goldeneyes.” On page 5-12, EPA concluded that “adjusting the [tested dose] for mallards even lower is, therefore, unjustified [emphasis added].” Consequently, EPA did not include an interspecies uncertainty factor greater than 1 in the Report to Congress derivation of avian wildlife criteria for mercury, despite using the same toxicological data as the Great Lakes Guidance. On January 19, 1999, the AMSA Mercury Workgroup met with EPA water program officials and presented its case for modifying the Great Lakes Water Quality Initiative (GLWQI) mercury wildlife criteria methodology, based on updated EPA data presented in the Mercury Study Report to Congress. Specifically, AMSA requested that the inter-species uncertainty factor be reduced from 3 to 1, based on the data in the Report to Congress.

Status: Because of the Agency’s lack of resources and interest to revise the mercury wildlife criteria, AMSA petitioned EPA on May 21, 1999 to initiate rulemaking proceedings to amend the mercury criterion for the protection of wildlife established in the Water Quality Guidance for the Great Lakes System. Specifically, the petition cites EPA’s Mercury Study Report to Congress that stated that the Agency could no longer justify the “interspecies uncertainty factor” used in deriving avian wildlife criteria for mercury. By eliminating the use of the threefold interspecies uncertainty factor, the avian wildlife mercury criteria would change from 1.3 parts per trillion to 4.0 parts per trillion, an adjustment that could affect compliance with the mercury criteria for some publicly owned treatment works (POTWs) in the Great Lakes Basin. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Keith Linn Northeast Ohio Regional Sewer District 216/641-6000.

EPA Publishes New Analytical Method for Mercury

Background: In the May 26, 1998 *Federal Register*, EPA published a proposed new analytical method for mercury, EPA Method 1631; Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence. EPA Method 1631 is approximately 1,000 times more sensitive than currently approved methods for determination of mercury. Method 1631 would need to be used in conjunction with clean sampling and laboratory techniques to preclude contamination at the low part per trillion (ppt) levels necessary for mercury determinations. AMSA submitted comments to EPA on the proposed method 1631 on July 27, 1998. AMSA comments reflected member concerns with the cost implications on POTWs in applying this method, the practical application of the method, and whether the method can be used to precisely and accurately quantify mercury in the ppt range in a wastewater or saltwater matrix. To address some of these concerns, AMSA petitioned EPA to revive validation work on draft Method 245.7. Method 245.7 uses the same protocols described in 1631, without requiring the use of ultra-clean sampling techniques and a gold trap. The use of clean sampling techniques was cited by AMSA member agencies as one of the major costs associated with Method 1631. AMSA noted that most POTWs could use Method 245.7 and still obtain a low detection limit at 2 to 4 ng/L.

Status: On June 8, 1999, EPA published a final “Guidelines Establishing Test Procedures for the Analysis of Pollutants; Measurement of Mercury in Water (EPA Method 1631, Revision B).” The final action makes available at 40 CFR part 136 an additional test procedure for measurement of mercury in aqueous samples. This rulemaking does not repeal any of the currently approved methods that measure mercury. EPA indicates that permitting authorities should decide the appropriate method based on the circumstances of the particular water sample measured. Use of EPA Method 1631 may be specified by the permitting authority when a permit is modified or reissued. EPA indicates that it does not intend for Method 1631 to be a de facto replacement for Method 245.1 or any of the other existing EPA-approved methods for measurement of mercury. EPA intends that permit writers specify the use of Method 1631 when measurement at very low levels is required, for example, to determine compliance with water quality-based effluent limitations duly established at very low levels. The regulation became effective July 8, 1999. CONTACT: Maria Gomez-Taylor, EPA 202/260-1639 or Mark Hoeke, AMSA 202/833-9106.

EPA Planning to Release Draft Anti-Degradation Guidance

Background: The President’s February 1998 Clean Water Action Plan (CWAP) calls for “EPA to develop guidance that

more specifically defines expectations and procedures for States to follow in fully implementing anti-degradation policies related to polluted runoff....” In response to the CWAP requirements, EPA has worked with Regions and States to develop a draft guidance document.

Status: The draft guidance will discuss four areas including: 1) what antidegradation policy is and how the policy is important to protecting water quality; 2) basic antidegradation policy requirements, illustrating required components of an antidegradation review; 3) advocacy of more consistent consideration of antidegradation concerns in NPDES permits; and, 4) identification of possible mechanisms for applying antidegradation to polluted runoff, including point and nonpoint sources. *A thirty-day public comment period is expected, with a final guidance planned for September 1999.* AMSA will distribute the draft guidance when available. CONTACT: Fred Leutner, EPA 202/260-1542 or Mark Hoeke, AMSA 202/833-9106.

Streamlining 301(h) Waiver Renewal Requirements - Anticipated Proposed Rule

Background: EPA is proposing to amend the Clean Water Act section 301(h) regulations. This proposal is designed to streamline the renewal process for POTWs with 301(h) modified permits. Section 301(h) provides POTWs discharging to marine waters an opportunity to obtain a modification of secondary treatment requirements if they demonstrate to EPA that they comply with a number of criteria aimed at protecting the marine environment.

Status: A proposal is planned for August 1999. CONTACT: Deborah Lebow, EPA 202/260-6419

EPA to Address Water Quality Standards Review Process

Background: EPA's water quality standards regulation at 40 CFR Part 131 currently provides that state and tribal water quality standards are in effect until EPA promulgates a federal rule to supersede the state or tribal water quality standard. EPA's regulation is based on its longstanding interpretation of section 303(c) of the Clean Water Act. In July 1997, the U.S. District Court for the Western District of Washington issued an opinion which held that the clear meaning of section 303(c)(3) of the CWA was that State water quality standards do not go into effect under the CWA until approved by EPA (*Alaska Clean Water Alliance v. Clark*; No. C96-1726R). The CWA provides EPA with 60 days to approve, and 90 days to disapprove water quality standards submitted by states and tribes. If a state or tribe does not rectify a standard within 90 days after EPA's disapproval, the CWA requires EPA to "promptly" propose new water quality standards. EPA has not always been able to meet these deadlines, and is now working on eliminating delays and reducing any backlogs. Because EPA's existing regulation remains in effect, and the court has issued no injunction against applying it, EPA's interim policy is to continue to follow the regulation (except in Alaska) until the regulation is changed.

Status: *As a result of the court decision, EPA is taking steps to address the current backlog in current water quality standards reviews and on July 9, 1999 proposed a rulemaking to the water quality standards review process to avoid future litigation. EPA has proposed to change the regulation that specifies when new and revised State and Tribal water quality standards become effective for Clean Water Act purposes. Under the proposal, new and revised standards adopted after the effective date of the final rule will not be used for Clean Water Act purposes until approved by EPA, unless such new and revised standards are more stringent than the standards previously in effect. The proposal also provides that standards already in effect at the effective date of the new rule may be used for Clean Water Act purposes, whether or not approved by EPA, unless EPA subsequently disapproves them and replaces them with Federal water quality standards. EPA is requesting comment on the proposed rule on or before August 23, 1999. A copy of the proposal was sent to the membership via Regulatory Alert RA 99-11. A final rule is expected to be promulgated by April 1, 2000. CONTACT: Fred Leutner, EPA 202/260-1542 or Mark Hoeke, AMSA 202/833-9106.*

Human Health Criteria Development

Background: On August 14, 1998 EPA's published "Draft Revisions to the Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health" in the Federal Register. Among the changes presented in the proposal from the 1980 AWQC National Guidelines that may result in more restrictive water quality criteria include: 1) Replacing bioconcentration factors (BCFs) with bioaccumulation factors (BAFs); and, 2) replacing the default fish intake rate of 6.5 grams/day to 17.8 grams/day (to protect the general adult population and sport anglers) and 86.3 grams/day (to protect subsistence fishers). When finalized, the revised methodology will provide guidance to States for use in developing human health criteria as part of their water quality standards. In addition to the draft Federal Register notice, EPA has developed a Technical Support Document (TSD). The TSD includes more technical detail and is supplemented by three proposed criteria developed using the new methodology.

Status: AMSA submitted comments on these revisions on December 14, 1998. EPA hopes to finalize these revisions by the end of 1999, however, because EPA received a significant amount of new information and studies during the proposal comment period, it may delay finalization to allow for the incorporation of these data. New cancer guidelines may also delay finalization of the rule, as EPA may wait for these to be finalized (EPA's proposal includes expected cancer guidelines). On May 20, 1999 EPA held a public stakeholder meeting to discuss the Draft Methodology Revisions. During the meeting, EPA indicated that it is developing guidance on the establishment of site-specific BAFs, one of AMSA's major questions with the proposed methodology revisions. *Final revisions are expected to be complete in March 2000.* CONTACT: Denis Borum, EPA 202/260-8996 or Mark Hoeke, AMSA 202/833-9106.

Related Items of Interest

- ☞ *EPA is sponsoring beach conferences on the East and West Coasts. Each 2-day conference will focus around key issues in beach water monitoring and public notification of beach advisories and closings. Topics will include microbial indicators of water quality, water quality standards, water quality monitoring and modeling, beach advisories and closings, and risk assessment and communication. The conferences will be held in San Diego, California on August 31- September 1, 1999, and in Tampa, Florida on October 18-19, 1999. For more information on conference agendas and registration, visit at <http://www.epa.gov/ost/beaches/meeting.html> on the Internet.*
- ☞ *On August 3, 1999, the National Academy of Sciences released a report on hormonally active agents. The report found that new studies need to be conducted to determine the effects that these chemicals, often called "endocrine disruptors," have on reproduction and development and other aspects of the biology of humans and wildlife. For more information on the report, visit <http://www.national-academies.org> on the Internet.*
- ☞ *Tudor Davies is leaving his post as Director of the Office of Science and Technology at EPA to become a Senior Advisor in the Office of Water. Geoff Grubbs will be replacing Tudor in this position. In other news, Beverly Banister, Deputy Director of the Water Management Division in EPA Region 4 will assuming the responsibilities of Acting Director of the Assessment and Watershed Protection Division, the position was vacated by Geoff Grubbs.*

WET WEATHER ISSUES

EPA Releases Outline of Proposed Regulations on SSOs

Background: EPA is crafting a national framework to guide the Agency in revising regulations and guidance to address SSO permitting and enforcement issues. A federal advisory committee, made up of municipal (including AMSA), environmental, EPA, and state interests met from November 1994 to December 1996 to discuss framework and implementation issues. Over the past two years, an internal EPA/State SSO work group with representatives from Regional Offices and over 15 States has developed draft regulations for municipal sanitary sewer collection systems. The draft regulations would establish standard permit conditions specifically for municipal sanitary sewer collection systems. These standard permit conditions will address: minimum operation and maintenance requirements, reporting requirements for sanitary sewer overflows (SSOs); and a prohibition on discharges from municipal sanitary sewer collection systems. Additionally, EPA is expected to address the regulation of satellite collection systems that are not owned or operated an NPDES permittee, and requirements for upstream wet weather treatment facilities. During AMSA's May 22-26, 1999 National Environmental Policy Forum in Washington, DC, EPA released four papers outlining draft regulations for municipal sanitary sewer collection systems. After a two and a half year hiatus, EPA has scheduled a public meeting with the SSO Federal Advisory Committee (FAC) for July 28 and 29 at the Madison Hotel in Washington, DC. AMSA has two designated representatives on the SSO FAC, and a total of six member agencies represented. The SSO FAC is comprised of representatives from environmental groups, health officials, public works agencies municipal officials, wastewater professionals, States, and EPA.

Status: *On July 29, 1999 AMSA, along with the National League of Cities, the National Association of Counties, the American Public Works Association and the Water Environment Federation, resigned from the Federal Advisory Committee (FACA) negotiations on national sanitary sewer overflow (SSO) regulations. Expressing serious concerns with the course EPA was taking with the draft proposed regulations and the FACA process, AMSA and the other*

groups decided, with reluctance, to withdraw and seek other means to participate in the development of future SSO regulations. After determining that EPA was inflexible on issues critical to municipalities and wastewater agencies, members of AMSA's leadership "in caucus with other local government organizations on the FACA" ended their participation. The two-and-a-half-year lapse in SSO FACA meetings and an October 15 deadline contributed to making the process extremely unfavorable to municipal interests. These factors changed what had been a consensus-based, regulation development process to an EPA "listening session." Other considerations that factored into the withdrawal of AMSA and the other organizations included the lack of an alternative, watershed approach to SSOs in EPA's draft proposed regulations and no discussion of the rule's costs and benefits to communities. EPA currently estimates that the SSO problem will cost local governments and their ratepayers \$80-90 billion. But AMSA and the other groups are extremely concerned that the unrealistic requirements in the draft proposed regulations could drive these costs drastically higher. Combined, these factors amounted to an unacceptable departure from the original SSO FACA process that AMSA had asked EPA to initiate almost five years ago. Despite the failure of the SSO FACA process, AMSA will continue to work with its municipal partners, EPA, environmentalists, Congress and the White House Office of Management & Budget (OMB) toward technically and financially feasible SSO regulations. The Association and its municipal partners will also continue efforts to pass the Urban Wet Weather Priorities Act of 1999. EPA expects to issue proposed regulations in May 1999. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Kevin Weiss, EPA 202/260-9524.

AMSA Testifies on Wet Weather Bill

Background: AMSA is aggressively targeting Clean Water Act reform through a coalition bill on wet weather and funding. The bill, entitled *the Urban Wet Weather Priorities Act of 1999*, proposes changes to the Clean Water Act to codify the Combined Sewer Overflow (CSO) Control Policy of 1994; create a national program for SSOs; clarify municipal separate stormwater discharge requirements; support municipal demonstration projects managing wet weather flows within a watershed framework; and provide a total of \$6 billion in funding for wet weather projects over three years. AMSA has worked in cooperation with the following groups in the development of the wet weather bill: the American Public Works Association (APWA), CSO Partnership, National League of Cities (NLC), National Association of Counties (NACo), National Association of Flood and Stormwater Management Agencies (NAFSMA), U.S. Conference of Mayors, CSO Partnership, Water Environment Federation (WEF), and Association of Metropolitan Water Agencies (AMWA).

Status: Lobbying efforts continue with the objective of getting the bill introduced after Congress returns from recess. AMSA was invited to participate in a June 22 hearing of the House Water Resources & Environment Subcommittee on wet weather and funding issues. In the testimony, AMSA emphasized the importance of regulatory certainty and Federal funding to comprehensively address urban wet weather discharges. Testifying on behalf of AMSA, Board Member William B. Schatz, General Counsel for the Northeast Ohio Regional Sewer District in Cleveland and Vice Chair of AMSA's Legislative Policy Committee, said that while "chronic water program shortfalls and nonpoint source pollution will require long-term solutions . . . Congress can take a critical first step by passing the Urban Wet Weather Priorities Act of 1999. This bill is essential to the future success of the Clean Water Act and the future of communities grappling with an uncertain regulatory climate and the skyrocketing costs of correcting sewer overflows and controlling stormwater." As a result of the lobbying effort by members during AMSA's National Environmental Policy Forum and continuing efforts by the National Office, the wet weather coalition has narrowed its potential list of sponsors to establish the best chances for the bill's success. The National Office is pushing for the bill's introduction in the next few weeks. The membership will be contacted for letters of support for the bill at the appropriate time. CONTACT: Greg Schaner, AMSA 202/296-9836.

Proposed Stormwater Phase II Regulations

Background: EPA's proposed stormwater phase II rule regulating stormwater discharges from small municipal separate sewer systems and small construction sites was published in the January 9, 1998 Federal Register. The proposed rule would require smaller municipalities within urbanized areas to apply for NPDES permit coverage by May 31, 2002 and implement a mix of best management practices to "reduce the discharge of pollutants to the maximum extent practicable and protect water quality."

Status: EPA is scheduled to promulgate final stormwater regulations by October 29, 1999. CONTACT: Mark Hoeke, AMSA 202/833-9106 or George Utting, EPA 202/260-9530.

Water Quality Guidance for CSO Receiving Waters

Background: Under the 1994 CSO policy, EPA urged states to coordinate the development of local long-term CSO planning with the review and appropriate revision of water quality standards and implementation procedures to ensure that the long-term controls will be sufficient to meet water quality standards. However, after almost five years since the agreement, and with half the CSO communities currently in the long-term planning process, only two states (Maine and Massachusetts) have conducted coordinated water quality standards reviews with long-term CSO planning. In report language accompanying the 1999 VA, HUD, & Independent Agencies spending bill, congressional appropriators urged EPA to "(1) develop, after a period for public comment, a guidance document to facilitate the conduct of water quality and designated use reviews for CSO-receiving waters; (2) provide technical and financial assistance to states and EPA regions to conduct these reviews; and (3) submit a report to the relevant authorizing and appropriations committees of the House and Senate by December 1, 1999 on the progress of meeting the requirements set forth above."

Status: EPA is in the process of developing a guidance document to facilitate the conduct of water quality and designated use reviews for CSO receiving waters. EPA hosted three meetings in May 1999 with stakeholder groups, including municipalities. An EPA staff document titled "Question/Issues on the Impediments/Solutions to the Implementation of the WQ-Based Provisions of the CSO Policy" was the basis for the discussions (see AMSA *Regulatory Alert RA 99-5*). Separate meetings for municipalities, regional and state permitting authorities, and environmentalists, were held at each location. During the meetings, municipalities stressed the lack of cost/benefit analysis for water quality in developing CSO long-term control plans, as most municipalities have been compelled by EPA and States to develop plans based upon financial capability, i.e. 2 percent median income. Municipalities also highlighted state and local resource issues, political impediments, and the lack of EPA guidance in the water quality standards review process, as it relates to wet weather, as major obstacles for developing reasonable CSO water quality goals. *EPA will now develop a draft guidance document that will be reviewed by an invited stakeholder group in September of 1999.* CONTACT: Mark Hoeke, AMSA 202/833-9106 or Tim Dwyer, EPA 202/260-6064.