

**To:**            *Members & Affiliates*  
**From:**       *National Office*  
**Date:**        *May 1999*

This *Regulatory Update* provides an overview of relevant regulatory issues current to **June 14, 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

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### 1999 Meetings

- July 20-23, 1999      **AMSA Summer Conference**  
*“Unifying Urban Wet Weather Programs”*  
*Philadelphia Marriott - Philadelphia, Pennsylvania*
- 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 & 30<sup>th</sup> 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>
<b>AIR QUALITY</b>			
▶ 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
<b>BIOSOLIDS</b>			
▶ NPDES Permit Application Requirements for POTWs, Form 2S	12/95	6/99	OMB Review
▶ Amendments to Round I Final Sewage Sludge Use or Disposal - Phase I	10/95	6/99	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	
<b>NPDES PERMITS</b>			
▶ 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	6/99	OMB Review
<b>PRETREATMENT &amp; HAZARDOUS WASTES</b>			
▶ 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	5/99	6/00	OMB Clearance
<b>WATER QUALITY</b>			
▶ 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	
▶ Guidance Establishing Test Procedures for the Analysis of Trace Metals	12/98	12/00	
▶ Water Quality Planning Regulations (TMDLs)	6/99	11/99	
▶ Ambient Water Quality Criteria - Human Health Methodology	8/14/98		
▶ Freshwater Ammonia Criteria Revisions	8/18/98		Interim Final
<b>WET WEATHER</b>			
▶ Stormwater Phase II	1/9/98	10/99	Proposed Rule

## AIR QUALITY ISSUES

### 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: Sam Hadeed, AMSA 202/833-4655, 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 by the January 15, 1999 deadline. 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: Sam Hadeed, AMSA 202/833-4655, or Elaine Manning, EPA 919/541-5499.

### EPA Developing Integrated Urban Air Toxics Strategy

**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 may 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).

**Status:** EPA plans to perform further analyses of HAP emissions, control methods for the listed source categories (including POTWs), and health impacts for stationary and mobile sources. AMSA plans to work closely with EPA over the next several months as it develops its final strategy by June 1999. 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. EPA recently indicated to AMSA that POTWs would not be included in the final list of area sources subject to controls under the strategy since POTWs will be regulated by MACT standards under section 112(d). POTWs may be covered under some future residuals risk controls. EPA is currently preparing its final package for OMB review and expects to publish the strategy later this summer. CONTACT: Sam Hadeed, AMSA 202/833-4655.

### 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's Board of Directors approved funding support to conduct 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 National Office distributed the survey forms to the membership via *Regulatory Alerts RA97-12* and *RA97-12a*. The 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. In May 1998, due to data compatibility problems with EPA's database, AMSA's Board of Directors approved the use of \$5,000 in Technical Action Funds to have the survey consultant reformat the AMSA data to meet EPA's requirements as it evaluates MACT controls for engines fueled by digester gas. The reformatted data was submitted to EPA June 1998. 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: Sam Hadeed, AMSA 202/833-4655

### Free RMP Submission Software Available

**Background:** As required under Section 112(r)(7) of the Clean Air Act, on June 20, 1996, EPA promulgated a final Risk Management Plan (RMP) regulation which requires the owner or operator of stationary sources at which a regulated substance is present to prepare and implement a RMP that must include both a hazard assessment that evaluates the potential effects of an accidental release of any regulated substance and a five-year accident release history. Regulated sources have until June 21, 1999 to comply with the RMP requirements. The model RMP provides compliance guidance for regulated chemicals with the highest potential to exceed the threshold quantity and which are most commonly used at wastewater facilities, including: chlorine, ammonia (anhydrous and aqueous), sulfur dioxide, digester gas and propane. The model RMP also covers: 1) developing a five-year accident history; 2) performing a hazard assessment; 3) developing a management system to oversee the implementation of the RMP elements; 4) defining boundaries of processes for which you are implementing prevention and response programs; 5) developing a prevention program; and, 6) implementing an emergency response program.

**Status:** AMSA recognized the need for the guidance in June 1996 when the regulation was promulgated with a three-year deadline for compliance. In response, the Association initiated a sustained effort to encourage EPA to develop a user-friendly document that would promote broad compliance by the wastewater treatment industry in meeting the requirements in advance of deadlines. In July 1997, AMSA established a steering committee charged with working with EPA and its contractors to develop a guidance document that would minimize the need for outside help in the development of RMPs. The steering committee concluded its work in June 1998, when AMSA sponsored a Risk Management Plan Implementation Workshop for POTWs, designed to expose members to the final draft and provide EPA with additional review of the guidance. In late October 1998, EPA released their "Risk Management Program Guidance for Wastewater Treatment Plants," which was developed in close collaboration with AMSA, which provided the original impetus for the guidance's development, as well as extensive input and review. On November 6, EPA and the FBI forwarded a letter to Congress announcing that RMP information that would be publicly available on the Internet would not include off-site consequence analysis data elements. The guidance is available online at

<http://www.epa.gov/swercepp/pubs/potws>. EPA submitted draft legislation (Chemical Safety Information and Site Security Act of 1999) to Congress on May 7 to make it illegal for government officials or contractors to release electronic versions of "off-site consequences analysis" (OCA) data through Freedom of Information requests. OCA data are worst-case estimates of the effects of chemical releases on a community. Senate bill S.880 was introduced on May 11 to amend the Clean Air Act by removing flammable fuels, including propane from the list of substances required to be reported under the RMP program. *The RMP must be submitted by June 21, 1999.* EPA has developed an electronic submission system called RMP\* Submit™. The software is available on diskette, CD-ROM or via EPA's web site. The software is free of charge. Small businesses that do not have computer access are eligible for an "electronic waiver." If you would like to have the software (CD - Order No. 5502-C99-001 or Disk - Order No. 550-C99-002) or an electronic waiver (Order No. 550-B99-001) mailed to you call the National Center for Environmental Publications at 800/490-9198. You can also download the software off of EPA's web site <http://www.epa.gov/ceppo/rmpsubmt.html>. Technical assistance for the software and any other RMP questions is available from the RMP Reporting Center 703/816-4434. CONTACT: Sam Hadeed, AMSA 202/833-4655 or Jim Belke, EPA 202/260-7314.

## BIOSOLIDS MANAGEMENT

### NPDES Permit Application Requirements for POTWs, Form 2S - Proposed 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:** EPA is currently finalizing changes to the municipal sludge application requirements and forms which were published in the December 1995 proposed rule. *EPA expects to publish the final rule by late-June 1999.* CONTACT: Sam Hadeed, AMSA 202/833-4655, or Robin Danesi, EPA 202/260-2991.

### Amendments to Part 503 Sewage Sludge Use or Disposal Rule

**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 expects to finalize Phase I, Round I sewage sludge use or disposal amendments by late-June 1999.* EPA plans to make the incineration portion of this rule self-implementing and require either THC or CO monitors installed within 12 months following final promulgation and meet a 100 ppm emissions standard. *In addition, these amendments will improve rule clarity and implementation and respond to a number of issues resulting from judicial review. This final rule will also amend the Part 403 General Pretreatment regulations to add a concentration limit for chromium in land-applied biosolids.* AMSA met with the Natural Resources Defense Council (NRDC) in November 1998 to discuss AMSA's concerns with relevant issues in the rulemaking, Section 129 of the CAA, dioxin, and opportunities for the two

organizations to reach common ground. AMSA also submitted a letter to EPA outlining several recommendations to accomplish this objective. EPA is currently evaluating these options. Round I, Phase II is scheduled for proposal in December 1999, with final promulgation expected in March 2000. *These amendments will establish a procedure for biosolids preparers to justify and calculate a site-specific ceiling value for selenium for land-applied biosolids, delete the annual pollutant loading rate option for biosolids sold or given away in a bag or other container, articulate the additional margin of safety afforded by heat dried pelletized biosolids products, allow for vector attraction reduction equivalency for land-applied biosolids, and move and thereby consolidate biosolids analytical methodologies to 40 CFR Part 136. The Agency is currently conducting a multi-media risk assessment for dioxin-like compounds in biosolids. The results of the risk assessment will be used to decide whether the Agency will propose Round II Part 503 numerical standards for biosolids by December 1999. EPA will also propose new numerical standards for molybdenum in land-applied biosolids by December 1999.* CONTACTS: Sam Hadeed, AMSA 202/833-4655 or Al Rubin, EPA 202/260-7589.

### NRC /EPA to Conduct Survey of Radionuclide Content of POTW Biosolids in June 1999

**Background:** The Nuclear Regulatory Commission (NRC) and EPA will send questionnaires to nearly 800 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.

**Status:** 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 approved \$25,000 to study comparative risk assessment of radionuclide exposure from biosolids. The guidance document would provide information and technical support to POTWs to facilitate participation in the radiation survey. *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 600 other wastewater agencies. Questionnaires are expected to be distributed to the 800 POTWs from NRC/EPA in late-June 1999.* CONTACT: Sam Hadeed, AMSA 202/833-4655, Bob Bastian, EPA 202/260-7378, or Phyllis Sobel, NRC 301/415-6714.

### National Biosolids Partnership to Meet in June/July

**Background:** In February 1993, EPA released its final Part 503 rule governing the use and disposal of biosolids. In 1995, the Agency proposed transferring most of its biosolids management role to states and other stakeholders. In response to the proposal, biosolids stakeholders, including AMSA, developed a "vision" for the national biosolids management program. Copies of the revised stakeholder report were forwarded jointly by AMSA and WEF to EPA in July 1997. EPA announced in early August 1997 that it will reactivate funding and staff resources to the biosolids management program and invited AMSA and WEF to form a partnership to identify and coordinate activities related to biosolids.

**Status:** The Partnership, which includes AMSA, WEF, and EPA, 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. In September, 1998 the House Appropriations Subcommittee on VA, HUD & Independent Agencies agreed to include a \$900,000 appropriation for the National Biosolids Partnership in their 1999 budget recommendation for EPA. AMSA's Board of Directors at its September 1998 leadership meeting passed a motion supporting independent third party verification as an essential element of the Environmental Management System (EMS) for biosolids. 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; contractor selections will be made by July 1.* The Partnership is actively pursuing Congressional approval of a \$1.775 million appropriations in EPA's FY 2000 budget to support the Partnership. AMSA members were encouraged to submit letters by mid-February 1999 to their congressional representatives on the Appropriations Subcommittee on VA, HUD & Independent Agencies. 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 published in late May 1999 and will be distributed to the membership via an upcoming Regulatory Alert in June.* 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 mid-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 in Alexandria, VA on April 19-20, 1999 to review and make recommendations on a number of action items for approval by the Management Committee in May. The Management Committee met on March 9-10, 1999 in Denver, CO to discuss strategic planning objectives for the NBP and met on May 26, 1999 immediately following AMSA's National Environmental Policy Forum. The Management Committee also held a briefing on the NBP for Assistant Administrator for Water Chuck Fox on May 24<sup>th</sup>. *The Steering Committee will meet on June 30-July 1 in Alexandria, VA; the Management Committee meets July 29-30 in Chicago, IL.* CONTACT: Sam Hadeed, AMSA 202/833-4655.

### ***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 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 June 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 July 1999. CONTACT: Robin Danesi 202/260-2991

## PRETREATMENT & HAZARDOUS WASTE ISSUES

### 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. AMSA submitted comments in early February 1999. AMSA's Pretreatment & Hazardous Waste Committee is currently reviewing the repropoed effluent guidelines for the centralized waste treatment (CWT) industry. Comments were submitted to EPA on March 15<sup>th</sup>. *The Effluent Guidelines Task Force met in Crystal City, VA on May 4-5 1999.* Table 1 presents a summary of effluent guidelines currently under development. CONTACT: Sam Hadeed, AMSA 202/833-4655 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	6/99
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

### 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. EPA's Draft Pretreatment Program Streamlining Proposal (NPRM) was distributed to the membership via *Regulatory Alert RA 97-13*. While supportive of most of the proposed changes, AMSA has major concerns with EPA's proposed modification of significant noncompliance (SNC) criteria. Member comments were forwarded to EPA on July 11, 1997. Based on discussions with EPA in 1997, AMSA prepared draft regulatory language under 40 CFR 403 that addresses SNC issues. The draft language was forwarded to a variety of stakeholders for review in August 1997. AMSA requested that EPA consider the language in the preamble to its proposal. AMSA and the Pretreatment and Hazardous Waste Committee Leadership met with EPA's Office of Enforcement and Compliance Assurance in December 1997, to reinforce AMSA's position on SNC and encourage EPA to consider our comments when developing the regulatory language.

**Status:** The draft NPRM to streamline the pretreatment program was distributed in November 1997 for internal EPA review and workgroup closure. 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. The study is expected to be completed by early July and will be part of AMSA's official comments to EPA. OMB cleared the pretreatment streamlining package in late January 1999. *The proposal is now anticipated to be issued by early July 1999.* CONTACTS: Sam Hadeed, AMSA 202/833-4655, or Jeff Smith, EPA 202/260-5586.

### 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 outright. A total of seven communities will be 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 proposed 2 year project will be 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 project contractors, Black & Veatch and Hagler Bailly are currently performing ongoing influent sampling at each of the pilot agencies and pilot cities. All of the cities have collected data on demographics of the photo processors and submitted the data to the project contractors by the end of 1998. A revised POTW Guidance Manual for the CMP for Silver Dischargers was distributed to the attendees of the 1997 AMSA/EPA Pretreatment Coordinators' Workshop. Representatives from the pilot cities and the project contractors met during the 1998 AMSA-EPA Pretreatment Coordinators' Workshop in Kansas City, MO. The project steering committee has also been conducting weekly conference calls to monitor progress. The study is scheduled for completion by December 1999. CONTACT: Sam Hadeed, AMSA 202/833-4655.

### AMSA-U.S. Navy Sign Joint Guidance on Shipboard Discharges to POTWs

**Background:** An investigation of metals in CHT system wastewater onboard Navy ships was conducted by the U.S. Navy, Hampton Roads Sanitation District, and the City of San Diego to classify CHT discharges. The investigation was designed to determine whether elevated metals concentrations in CHT effluent are a result of industrial discharges to the CHT system or from corrosion of metal components of the ships' plumbing systems. The study concluded that elevated metals concentrations in CHT effluent is a result of corrosion of ships' plumbing systems, and that ships' CHT discharges are domestic in nature. Subsequent to the CHT study, a partnering effort was initiated with AMSA to apply the results nationwide. AMSA's Pretreatment & Hazardous Waste Committee reviewed the data submitted by the Navy and agreed with those conclusions.

**Status:** AMSA and the U.S. Navy recently signed joint guidance regarding the regulation of wastewater discharges from U.S. Navy ship Collection, Holding, and Transfer (CHT) systems. Data collected by the U.S. Navy, in cooperation with AMSA member agencies in Norfolk, Virginia and San Diego, California, demonstrated that Navy CHT wastewater is domestic in nature. The same data also concludes that concentrations of metals, such as copper, nickel, and zinc, in Navy CHT wastewater can be attributed to the corrosion of ship plumbing systems exposed to seawater. Guy Aydlett, Chair, AMSA Pretreatment & Hazardous Waste Committee and Elsie Munsell, Deputy Assistant Secretary of the Navy (Environment and Safety) represented the two organizations at the signing ceremony held at the Pentagon in March.

Based on the conclusions of the report, the following guidance was developed:

- Regulate Navy CHT wastewater as domestic wastewater (uncommingled);
- Implement this guidance on a site-specific basis utilizing existing analytical data;
- Maintain POTW plant performance and comply with approved pretreatment program guidelines; and
- Make appropriate allowance, within approved pretreatment program guidelines, for metal concentrations in Navy effluent, which contains a mixture of CHT wastewater and industrial wastewater (uncommingled).

A number of AMSA member agencies situated near U.S. Navy installations and Coast Guard operations such as Seattle, Portland, San Francisco, Anchorage, Honolulu, Houston, Philadelphia, Boston, Providence, Newark and some 20 other agencies will benefit from this guidance to regulate CHT wastewater as a domestic source. *EPA's Office of Wastewater*

*Management was advised of the guidance and supporting study in mid-June 1999. Copies of the U.S. Navy study can be obtained by contacting Ron Tickle, Chief of Naval Operations, Arlington, VA; (703) 602-2787. Implementation questions should be directed to Sam Hadeed, c/o AMSA at (202) 833-4655*

## 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 is soliciting involvement from its Member Agencies in a new Nutrients Workgroup to be convened under the auspices of the AMSA Water Quality Committee. The Nutrients Workgroup will track developments of the Regional Nutrient Teams, advocate a more reasonable approach to nutrient control through EPA/State meetings, and coordinate other activities as appropriate.

*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.* CONTACT: Bob Cantilli, EPA 202/260-5546 or Mark Hoeke, AMSA 202/833-9106.

### TMDL Revisions to be Proposed in Summer 1999

**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:** EPA plans to propose revisions to its total maximum daily load (TMDL) program regulations and accompanying guidance in the summer of 1999. On April 15, AMSA met with EPA officials to discuss details of the proposal. EPA describes the package as "aggressive," requiring states to implement reasonable assurance that nonpoint source controls will be implemented, requiring the listing of threatened waters, and requiring the 303(d) list to serve as a basis for listing all impaired waters. EPA proposes that the 303(d) list be "segmented" into four separate lists: 1) waters impaired by pollutants requiring TMDLs; 2) waters where TMDLs have been completed, but where water quality is still impaired; 3) waters impaired by pollution that do not require the development of a TMDL; and 4) waters where best practicable technology will result in the attainment of the waterbody and where no TMDL is required. 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.

There are also several NPDES issues that EPA hopes to address in the 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) allow for offsets for new or significantly expanded discharges where no TMDL exists permit. EPA has indicated that it will provide a 90-day comment review period upon publication of the proposed regulations *which are expected to be published in mid-July 1999*. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Don Brady, EPA 202/260-5368.

### 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. EPA is currently collating over 165 sets of comments on the ANPRM, and expects to be in a better position to assess possible rule changes by early summer. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Sue Gilbertson, EPA 202/260-9536.

### Whole Effluent Toxicity Inter-laboratory Variability Study to Begin in June

**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:** EPA had planned to release a bid information package to study participants in early March 1999. However, due to budget constraints, EPA has been delayed in initiation of the study plan. In May, EPA released a revised study plan that proposes three categories of participating labs. Category 1 will consist of 9 labs whose participation will be paid for entirely by EPA as per the WET settlement agreement. These labs will perform the WET methods called for in the study and will be selected based on a low-bid proposal process. Category 1 labs will receive four blind test samples, with each sample being a single bulk sample preparation. Category 2 will be those derived from the set of pre-qualified volunteer laboratories. These additional labs (up to eleven) will be selected at random from the remaining list of pre-qualified laboratories, and be responsible for the entire cost of participation (including shipping and handling of samples). These labs will include AMSA agency-sponsored laboratories that have volunteered to participate in one or more methods in the study. Category 2 labs will receive the same types and number of samples as the Category 1 labs. Category 3 will be all remaining qualified volunteer labs that wish to participate in the study that were not selected in Category 1 or 2. Category 3 labs will also be responsible for the entire cost of participation, but will only receive three ampules of concentrated samples that would need to be diluted prior to initiating analysis. A full status report on the WET study will be sent to the AMSA membership via an upcoming Regulatory Alert. Pre-qualification documents are expected to be sent to laboratories and sponsors in June. AMSA has agreed to act as a central billing contact for volunteer labs and EPA's contractor during the study. CONTACT: Bill Telliard, EPA 202/260-7134 or Mark Hoeke, AMSA 202/833-9106.

### Guidance on Whole Effluent Toxicity (WET) 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 becomes 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 will propose a rulemaking to the water quality standards review process to avoid future litigation. EPA is concerned with the implications of the Alaska case citing in a fact sheet that modified state water quality standards that are less stringent than existing standards would need EPA action before they could be used, even if they are based on better science. Modified standards that are more stringent than existing standards could go into effect immediately. EPA reviews and follow-up of disapprovals has not been expeditious in the past. EPA plans to propose a rule by September 1, 1999 and promulgate a final rule by April 1, 2000. As of the date of the final rule, all existing state water quality standards will be effective. After the final rule is promulgated, any modified standard will require EPA approval prior to becoming effective. 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.* CONTACT: Denis Borum, EPA 202/260-8996 or Mark Hoeke, AMSA 202/833-9106.

## *Related Items of Interest*

☞ AMSA is reviewing recently released reports on nutrient loadings in the Mississippi Basin because they lay important groundwork for the comprehensive control of nonpoint source pollution from crops and pastures, the leading cause of water quality impairment in the country. The six reports were compiled by the White House's Hypoxia Working Group, which has spent the last 18 months researching the causes of the Gulf of Mexico's "dead zone" and the costs and benefits of addressing the problem. The six reports contain information on the characterization of hypoxia; the ecological and economic consequences of hypoxia; the sources of nutrients in the Mississippi Basin; the water quality effects of reducing nutrient loads; evaluating methods for reducing nutrients; and evaluating the costs and benefits of reducing nutrient loads. Comments on the reports are due Aug. 2, 1999. AMSA plans to submit comments on the report after discussion and review by the Water Quality Committee. The reports are available on-line via EPA's web site at [www.epa.gov/msbasin](http://www.epa.gov/msbasin). Based on the reports and comments, the National Oceanic & Atmospheric Administration will compile an integrated assessment for the White House Committee on Environment and Natural Resources (CENR) and Mississippi River Gulf of Mexico Watershed Nutrient Task Force. The CENR must then report its recommendations to Congress by May 2000. The reports find that the most feasible approach to reducing nitrogen in the basin is to reduce the over-application of commercial fertilizers. This approach, combined with targeted wetlands restoration would cost-effectively achieve a 20 percent reduction in nutrient loadings in the basin. The reports also discuss point/nonpoint trading and demonstrate that municipal sources account for less than 5 percent of nutrients in the Mississippi Basin.

## WET WEATHER ISSUES

### AMSA to Testify 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 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 to managing wet weather flows within a watershed framework; and provides 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 have begun with the objective of getting the bill introduced within the next few weeks. AMSA has been invited to participate in a June 22 hearing of the House Water Resources & Environment Subcommittee on wet weather and funding issues. Bill Schatz, General Counsel for the Northeast Ohio Regional Sewer District and AMSA's Vice Chair of the Legislative Policy Committee, will be providing testimony on behalf of AMSA. The Subcommittee is particularly interested in the AMSA-led Urban Wet Weather Priorities Act of 1999, which staff consider to be the type of targeted, bi-partisan supported legislation favored over more comprehensive re-writes. The decision to focus the hearing on these issues is indicative of the strong relationship the Association has developed with Congress over the past several years. In support of AMSA's testimony, members responded to a mini-survey to provide the National Office with useful material on how the bill will benefit municipalities. In addition, members represented by House Subcommittee members sent letters of support for the bill to each Representative. During AMSA's May 1999 National Environmental Policy Forum, members met with their Congressional delegation urging support of the bill, providing valuable information on likely sponsors.* 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.

## 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. The Office of Wastewater Management (OWM) is currently developing a draft Federal Register notice that will include: 1) An interim policy statement addressing NPDES permit requirements for municipal sanitary sewer collection systems (the policy will clarify how existing 'generic' standard NPDES permit conditions apply to municipal sanitary sewer collection systems); and 2) Proposed modifications to the NPDES regulations which would establish standard permit conditions specifically for municipal sanitary sewer collection systems. These standard permit conditions will address: reporting requirements for sanitary sewer overflows (SSOs); and a prohibition on discharges from municipal sanitary sewer collection systems.

**Status:** 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. On May 22, AMSA's Wet Weather Issues Committee was briefed by EPA on the papers and draft regulations, and members were given the opportunity to provide feedback to EPA throughout the five-day meeting. The U.S. Environmental Protection Agency (EPA) is developing a Federal Register notice to provide guidance, policies and propose regulations to clarify National Pollutant Discharge Elimination System (NPDES) requirements for municipal sanitary sewer collection systems and sanitary sewer overflows (SSOs). The Federal Register notice will have four major objectives:

- 1) **Standard Permit Conditions** - Propose standard NPDES permit conditions to clarify requirements for municipal sanitary sewer collection systems. The standard permit conditions, which will be required in all NPDES permits for publicly-owned treatment works (POTWs) or sanitary sewer collection systems will address:
  - a) Record keeping and reporting requirements for SSOs;
  - b) Public notification requirements for SSOs;
  - c) Capacity assurance, management, operation and maintenance requirements for municipal sanitary sewer collection systems; and,
  - d) A prohibition on SSO discharges to waters of the United States (but describing circumstances where a discharge may be exempted from enforcement action or where an affirmative defense can be claimed for a discharge beyond the operator's control)
- 2) **Municipal Satellite Collection Systems** - Propose regulations that clarify that satellite municipal sewer collection systems are to obtain NPDES permit coverage. Satellite municipal collection systems are

*collection systems that do not treat and discharge their wastewater. Rather, satellite municipal collection systems convey flows to a treatment facility where the NPDES permittee is a different municipal entity.*

- 3) ***Emergency Overflow Structures*** - Propose regulations that provide criteria for evaluating the location of constructed emergency overflow structures for municipal sanitary sewer collection systems; and,
- 4) ***Additional Issues*** - Provide clarifying policy and/or guidance statements on additional issues, including: existing requirements for reporting SSOs; how secondary treatment regulations should be applied to permits for infrequent, noncontinuous discharges from peak excess flow treatment facilities serving sanitary sewer collection systems; and when non-municipal satellite collection systems that introduce sewage, industrial wastes or other pollutants into a POTW may be regulated under the NPDES permit program, pretreatment program, and/or local requirements.

*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. 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. EPA hopes to formally propose regulations by the end of 1999. AMSA plans to convene a meeting of the municipal/operator caucus of the SSO FAC on June 30 to discuss concerns on EPA's draft proposals. In the meantime, conference calls with the SSO FAC have been scheduled to discuss some of the substantive issues with the draft rules. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Kevin Weiss, EPA 202/260-9524.*

### 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 Dec. 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 has hosted three meetings in the month of May 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 July of 1999. AMSA is preparing detailed comments for EPA consideration, based on discussions at the meetings. CONTACT: Mark Hoeke, AMSA 202/833-9106 or Tim Dwyer, EPA 202/260-6064.