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July 22, 2002

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Metal Products & Machinery Rule
Office of Water, Engineering and Analysis Division (4303T)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Secretary
Donnie R. Wheeler
General Manager
Hampton Roads Sanitation
District
Virginia Beach, VA

Re: *Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Metal Products and Machinery Point Source Category; Notice of Data Availability, 67 Fed. Reg. 38752 (June 5, 2002)*

Executive Director
Ken Kirk

Dear Sir or Madam:

The Association of Metropolitan Sewerage Agencies (AMSA) is pleased to provide comments on the U.S. Environmental Protection Agency's (EPA's or Agency's) *Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Metal Products and Machinery Point Source Category; Notice of Data Availability (NODA)*. Founded in 1970, AMSA represents the interests of over 270 of the nation's publicly owned wastewater utilities (POTWs). AMSA members serve the majority of the sewered population in the United States and collectively treat and reclaim over 18 billion gallons of wastewater every day. As key stakeholders in the effluent limitations guidelines (ELG) program, AMSA members oversee implementation of EPA's categorical pretreatment standards (CPS) and are engaged in the national dialogue to develop such standards. At the same time, AMSA members, along with thousands of other POTWs, continue to develop and implement local programs tailored to the water quality needs of their community.

AMSA appreciates the opportunity to comment on the NODA and applauds the Agency's efforts to collect new data and to correct errors made in the Metal Products and Machinery (MP&M) proposal (66 *Fed. Reg.* 424; January

3, 2001). Given the new information the Agency has presented in the NODA, AMSA is now even more confident that categorical pretreatment standards are not necessary for the MP&M point source category.

AMSA's comments on the NODA focus on three major issues:

- AMSA supports the "no regulation/no further regulation" option for indirect MP&M dischargers.
- AMSA believes that application of the Metal Finishing (Part 433) effluent guidelines to existing Electroplating (Part 413) facilities as well as previously non-categorical General Metals facilities will place substantial administrative and financial burdens on many of the nation's POTWs with little environmental benefit.
- AMSA believes a pollution prevention alternative with an enforceable environmental management system (EMS) component for the General Metals subcategory also would place unnecessary burdens on POTWs.

AMSA Supports the "No Regulation/No Further Regulation" Option for Indirect MP&M Dischargers

AMSA strongly supports the "no regulation/no further regulation" option for indirect dischargers. AMSA is confident that discharges from MP&M facilities are adequately regulated under existing categorical standards and POTW local limits and pose no threat of pass-through or interference.

AMSA's July 2, 2001 comments (AMSA's comments) on the proposed MP&M rule set forth the Association's position, which remains unchanged today, that the Part 438 MP&M limits, if implemented, would create substantial POTW and industrial facility burdens with little, if any, additional environmental benefit. As stated on page 31 of AMSA's comments:

AMSA believes that EPA vastly underestimated the POTW administrative and financial burden to implement the MP&M rule. AMSA's assessment of real-world data found few, if any, environmental benefits that will be achieved by the rule. Based on its review of EPA's methodology and AMSA's own POTW survey, AMSA believes that EPA significantly underestimated the administrative costs to POTWs for implementing the MP&M rule. EPA's administrative cost estimates are understated for a number of reasons:

- *EPA assumed that POTW expenditures for conducting surveys to identify facilities potentially subject to the MP&M rule are "insignificant."*

- *EPA expected no increase in the costs of administering pretreatment program requirements due to the MP&M rule for facilities that currently hold permits with mass-based limits.*
- *While EPA recognized that POTWs must conduct sampling to assess the compliance status of facilities subject to categorical pretreatment standards (including the MP&M rule), EPA alternately assumed that POTWs would conduct the regulatory minimum monitoring for all facilities while at the same time EPA vigorously urges POTWs to conduct substantially more than the regulatory minimum monitoring for protection of POTW facilities.*
- *EPA failed to recognize that POTWs incur substantial analytical costs with regard to samples obtained at regulated facilities.*
- *EPA did not consider the management oversight costs to POTWs with regard to implementing and maintaining Pretreatment Programs, particularly for POTWs that may be required to develop new Pretreatment Programs as a result of the MP&M rule.*

AMSA still questions EPA's claims that MP&M pollutants impair the quality of POTW biosolids and reduce the use of land application. EPA's initial analysis of metals concentrations in biosolids did not entail actual sampling at POTWs. AMSA's comments detailed what AMSA found regarding biosolids quality at page 22:

Based on data submitted in the 2001 AMSA MP&M Survey of 177 POTWs, AMSA believes that EPA significantly overestimated the economic and environmental benefits of the proposed Metal Products and Machinery Rule for the POTW community.

*EPA contends that more stringent regulations on the Metal Products and Machinery community will result in better quality biosolids that can be land applied. As shown in the analysis of AMSA's survey data, **all POTWs surveyed, regardless of size, met the metals Ceiling limits [Low Limits]**, which would allow their biosolids to be land applied. Only 5.03% [8 out of 159] of the POTWs surveyed did not meet the High Limit cut off for an administrative reduction in paperwork based on higher quality biosolids. The proposed MP&M rule will do nothing to increase the quality of biosolids. POTWs will be required to regulate MP&M facilities to decrease metals which, in most cases, are already far below even the highest limit required for high quality biosolids suitable for land application.*

The Lue-Hing investigation of two pairs of large-scale POTW biosolids surveys spanning the periods 1979 to 1988 and 1987 to 1996, respectively, helps to assess the impact of the

national Pretreatment Program on biosolids quality¹. The first survey pair was conducted by EPA and involved approximately 40 POTWs of varying sizes across the country. The second survey pair was conducted by AMSA and involved approximately 150 AMSA member POTWs. The survey comparisons are summarized in Tables 1 and 2.

TABLE 1
 COMPARISON BETWEEN MEAN METAL CONCENTRATIONS IN TWO
 EPA BIOSOLIDS SURVEYS
 1979 - 1988

Pollutant	Concentration (mg/kg)			Percent Change
	1979 Survey	1988 Survey	Difference	1979 – 1988
Cadmium	68.95	6.94	-62.01	-89.9%
Chromium	429.19	118.57	-310.62	-72.4%
Copper	601.83	741.20	139.37	23.2%
Lead	369.01	134.37	-234.64	-63.6%
Nickel	135.11	42.66	-92.45	-68.4%
Zinc	1,594.32	1,201.88	-392.44	-24.6%

TABLE 2
 COMPARISON BETWEEN MEAN METAL CONCENTRATIONS IN TWO
 AMSA BIOSOLIDS SURVEYS
 1987 - 1996

Pollutant	Concentration (mg/kg)			Percent Change
	1987 Survey	1996 Survey	Difference	1987 – 1996
Cadmium	25.99	6.39	-19.60	-75.4%
Chromium	430.49	102.92	-327.57	-76.1%
Copper	711.32	506.17	-205.15	-28.8%
Lead	307.78	111.34	-196.44	-63.8%
Nickel	167.17	56.90	-110.27	-66.0%
Zinc	1,540.39	829.66	-710.73	-46.2%

¹ C. Lue-Hing, P. Tata, T. Granato, R. Sustich, R. Johnson, R. Pietz, "Sewage Sludge Survey," Association of Metropolitan Sewerage Agencies, 1998, Washington, D.C.

EPA did not give sufficient credit for the effectiveness of local limits. Pretreatment programs have developed, implemented, and enforced local limits that ensure wastewater treatment plants comply with defined environmental criteria. National Pollutant Discharge Elimination System (NPDES) permits for most POTWs with significant industrial contributory flows contain daily average or monthly maximum limits for metals of concern. Most also require compliance with either chronic or acute toxicity limits. AMSA believes local limits developed to meet these environmental criteria effectively protect the environment, while minimizing the administrative burden on POTWs and the economic and operational burdens imposed on industry. Given the existing categorical pretreatment standards and the effectiveness of POTW local limits, AMSA continues to believe that new categorical pretreatment standards are not necessary and supports the "no regulation/no further regulation" option.

*EPA's 433 Upgrade Option For Indirect
Dischargers Would be Unduly Burdensome for POTWs*

EPA's "433 Upgrade Option" would align facilities in the affected subcategories (General Metals, Metal Finishing Job Shops, and Printed Wiring Board), which are currently required to meet the 413 standards, with the standards of the Metal Finishing effluent guidelines (Part 433). In addition, as AMSA understands it, EPA plans to require General Metals facilities (exceeding the low-flow cutoff of one million gallons per year) that are now successfully regulated by POTW local limits to become Categorical Industrial Users (CIUs) under Part 433. General Metals facilities conducting one of 40 operations considered ancillary to Part 433 Metal Finishing operations would become CIUs.

The impact to POTWs of making 413 facilities 433 facilities would depend on the number of existing 413 facilities handled by the POTW. POTWs with few existing 413 facilities have indicated that they would not be faced with significant administrative burden. However, POTWs who handle numerous 413 facilities worry that the upgrade would carry with it administrative and financial burdens. Some AMSA members report numbers of 413 facilities ranging from none to more than 80.

If EPA decides to move previously non-categorical General Metals facilities under Part 433 the burden to POTWs would increase dramatically. While making 413 facilities comply with Part 433 would require the modification or reissuance of permits, regulating a new pool of General Metals facilities would require surveys to first identify all of the affected facilities, in addition to inspecting, monitoring, and permitting all of the facilities. Some AMSA members have estimated that for their agencies there may be as many as 400 to 1500 of these facilities to evaluate. Several AMSA members who expect to issue new permits for only 10-14 affected facilities, estimate costs for the additional inspections, monitoring, and permitting at more than \$40,000 per year. Other agencies estimate the cost to revise industrial user

inventories, to ensure all of the newly affected facilities are covered under permit, at more than \$75,000.

AMSA is most concerned that EPA's 433 Upgrade Option, specifically the potential regulation of a large number of non-categorical General Metals facilities, is based on the assumption that these facilities are "not regulated." In reality, these facilities are effectively regulated by POTW local limits as needed to meet NPDES permit limits and biosolids pollutant concentrations. Forcing these facilities to become CIUs under Part 433 would impose a significant burden on POTWs with little or no environmental benefit.

AMSA Does Not Support an Enforceable EMS Alternative

AMSA supports the use of voluntary environmental management systems (EMSs). An EMS not only helps ensure compliance with environmental regulations, but also moves facilities beyond compliance, leading to additional benefits such as reduced management costs. The heart of the EMS concept, however, is its voluntary nature. When EMSs are used as enforceable alternatives to more traditional environmental requirements, they become simply another item on the compliance checklist. Accordingly, AMSA does not support any alternative that would require by federal regulation the development of an EMS to replace a categorical pretreatment standard.

AMSA believes the enforceable EMS alternative discussed in the NODA may place an unreasonable resource burden on POTWs to determine Best Available Technology (BAT) equivalency and make the required "forfeiture" determinations, and does not believe that this alternative is a viable regulatory option. Identification of what constitutes BAT can be a controversial and complicated process and may be implemented inconsistently nationwide. Many of AMSA's members are making local decisions to encourage and implement EMS and best management practices (BMP) approaches for their industrial users, but express concern that a nationally mandated EMS will simply become another command and control requirement. In addition, smaller agencies may not have the expertise to make judgments on whether the components of an EMS are adequate and extensive training would be required.

AMSA Supports Changes to Low Flow Cutoffs

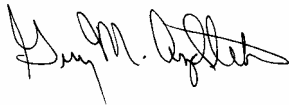
If EPA decides to finalize some form of categorical pretreatment standards, AMSA would support the inclusion of a low flow cutoff (for indirect dischargers in the Metal Finishing Job Shops, Printed Wiring Board, and Steel Forming and Finishing subcategories) and support the increase of the proposed low flow cutoffs for indirect dischargers in the General Metals and Oily Wastes subcategories. AMSA encourages EPA to consider a higher threshold for General Metals facilities, such as the significant industrial user (SIU) flow volume in Part 403 of 6.6 million gallons per year (25,000 gallons per day). At a minimum, EPA should consider using the 2 million gallons per year cutoff as in the Oily Wastes subcategory.

Conclusion

AMSA supports the "no regulation/no further regulation" option for indirect MP&M dischargers. Given the success of the existing categorical pretreatment standards and POTW local limits at preventing interference and maintaining high quality biosolids, AMSA does not believe that additional pretreatment standards are warranted. Furthermore, EPA's potential 433 Upgrade Option, specifically the proposal to regulate previously non-categorical General Metals facilities, is not a viable alternative. These facilities are not "unregulated." Finally, the EMS alternative discussed in the NODA would simply add another, unfamiliar regulatory requirement that POTWs would have to oversee in lieu of pretreatment standards. AMSA supports and encourages the development of EMSs by its member agencies, but can see no benefit in requiring POTWs to enforce the use of a tool that is inherently voluntary.

Thank you again for the opportunity to comment on this critical effort. AMSA looks forward to continued discussions with the Agency on this matter. If you have any questions about our comments please do not hesitate to call me at 757/460-4220 or Chris Hornback, AMSA at 202/833-9106.

Sincerely,



Guy Aydlett
Director, Water Quality
Hampton Roads Sanitation District
Chair, AMSA Pretreatment and Hazardous
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Chris Hornback
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