




Association of  
Metropolitan  
Sewerage Agencies

March 16, 2004

**MEMORANDUM**

Subject: Pretreatment Streamlining Rule

From: Ken Kirk, Executive Director  
Association of Metropolitan Sewerage Agencies 

To: Benjamin Grumbles, Acting Assistant Administrator  
Office of Water  
U.S. Environmental Protection Agency

James A. Hanlon, Director  
Office of Wastewater Management  
Office of Water  
U.S. Environmental Protection Agency

The Association of Metropolitan Sewerage Agencies (AMSA) would like to take this opportunity to applaud EPA's work to finalize the Pretreatment Streamlining proposal (64 *Fed. Reg.* 39564). AMSA continues to support the Agency's attempt to streamline key elements of the pretreatment regulations. AMSA has learned that your office will be examining options for this rulemaking effort in the very near future. AMSA urges EPA to continue to work toward finalizing the Streamlining Rule, as it is a win-win situation for EPA, the regulated community, and the environment. This rule would not only reduce the unnecessary administrative burden that POTWs, industry, and regulatory agencies face under current pretreatment regulations, but would in fact free up resources for other critical water quality projects. Included in this memorandum are AMSA's recommendations pertaining to the provisions of this important effort. In the coming months, AMSA can quickly gather information from its members to further substantiate the need for this rule, and to more completely justify these positions.

Upon proposal in 1999, the rule made significant improvements, but fell short on many of the potential areas for burden reduction. Due to limited staff resources, the rule has remained dormant for several years. EPA now has a valuable opportunity to reevaluate the pretreatment program, reduce burden, and allocate saved resources to other programs that can achieve greater environmental benefit. AMSA urges the Agency to seize this opportunity.

Detailed below are AMSA's recommendations for the Pretreatment Streamlining Rule.

### ***Equivalent Mass Limits for Concentration Limits***

AMSA supports the proposed changes that allow Control Authorities flexibility in determining compliance with categorical parameters. This flexibility would spur Control Authorities to encourage water conservation practices, thus reducing hydraulic loading on the POTW. While not limited to water conservation opportunities, AMSA supports Control Authorities having the option to determine if an industry qualifies for equivalent mass limits on a case-by-case basis. Since it is clearly in their best interest, AMSA is confident that POTWs will ensure that no additional toxics are discharged. To this end, POTWs can use a worksheet similar to that required by the combined wastestream formula to verify that no additional toxics are discharged.

### ***Definition of SIUs***

AMSA recommends that the definition of Significant Industrial User (SIU) be changed to reflect criteria based upon the potential to impact the receiving POTW. AMSA recommends deleting the existing 25,000 gpd flow designation for non-categorical SIUs. This flow number is arbitrary and would have vastly different effects on variably sized POTWs. AMSA instead supports having a 5% of flow standard in all instances to determine if a facility is an SIU. This approach will still be protective since the majority of industrial users not considered to be SIUs are still regulated under POTW pretreatment programs through permits and/or local limits.

### ***De Minimis CIUs***

AMSA supports exempting a newly defined class of “non-significant” categorical IUs (NCIUs) from the definition of SIU. However, the Association feels that the 100 gpd ceiling is too low to reflect the local conditions and/or concerns of POTWs. In fact, EPA estimated that only two percent of categorical industrial users (CIUs) nationally would qualify for the proposed NCIU class distinction. AMSA would like the Agency to adopt a three-tiered classification system, with increasing amounts of oversight, to allow for an additional class of facilities that contribute minimally and have a good compliance history. The first tier, called de minimis CIU (DCIU), would be those facilities that do not discharge untreated categorical wastewater and discharge less than 100 gpd of other process wastewater. The middle tier, or NCIU, would be those facilities that constitute less than 0.01% of POTW design flow and headworks loading of organics and categorically regulated pollutants. These NCIUs would also have to demonstrate a good compliance record (i.e., no SNC for 4 consecutive six-month periods). Lastly, any facilities not meeting these requirements would continue to be classified as CIUs, and would be subject to all categorical pretreatment standards. For the greatest burden reduction, AMSA proposes reduced oversight (both IU self-monitoring and Control Authority monitoring) for the DCIU and NCIU classes. Potentially this change will result in the most significant resource savings for POTWs and IUs. Currently, there exists a number of local requirements to ensure that DCIUs would not be dropped from oversight altogether.

### ***Significant Non-Compliance Criteria***

AMSA is concerned that “bad actors” get hidden in large significance non-compliance (SNC) publications, which include many industrial users that did not threaten or cause pass through, interfere with POTW operation, or endanger workers.

AMSA suggests the following fixes to the definition of SNC:

- The 30-day late reporting requirement should be extended to 45 days. If a report that is submitted late establishes compliance with all applicable pretreatment standards the late submittal will not be deemed SNC.
- EPA should develop Technical Review Criteria (TRC) that are more relevant to the objectives of the pretreatment program, developed in a manner that lends credence to the application of effluent guidelines and local limits, and are technically sound and defensible. The current TRC were “borrowed” from the National Pollutant Discharge Elimination System program and assume that discharges are immediately entering the environment, rather than passing through POTWs.
- SNC determinations should be based on static six-month periods and not on rolling quarters, due to the fact that some facilities are being classified unfairly as SNCs in two consecutive quarters for the same violation.

### ***Narrative Standard Loophole***

The current pretreatment regulations at 40 CFR Part 403.5, which deem any local limits, or pollutant parameters, to be national pretreatment standards, do not address narrative standards. AMSA would like the Agency to include reference to narrative standards (i.e., “no visible sheen”), which would then also be considered national pretreatment standards, and, therefore, subject to the SNC definition and enforcement action.

### ***Sampling for Pollutants not Present***

AMSA strongly supports providing Control Authorities with discretion to allow an industrial user subject to categorical pretreatment standards to not sample for a pollutant if the pollutant is not expected to be present in its wastestream in a quantity greater than the background level present in its water supply, with no increase in the pollutant due to the regulated process. AMSA members have nearly 30 years of POTW data that show the absence of certain pollutants. AMSA strongly recommends that EPA not limit the appropriate discretion granted to the Control Authority by excluding Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) facilities (or any other sources regulated by a categorical standard) from this proposed change. POTWs have been regulating the OCPSF sector since 1990 and can make appropriate decisions as to whether they can safely allow a reduction in sampling burden.

Again, AMSA appreciates the opportunity to clarify its position on these important issues. The Association believes it is important, as co-regulators of the National Pretreatment Program, for EPA and POTWs to work toward a more efficient pretreatment program that is less burdensome, while freeing up much-needed resources for additional environmental protection efforts. AMSA urges the Agency to seize this opportunity. AMSA will be contacting you in the near future to set up a meeting to further discuss these issues. If you have any questions, please contact Guy Aydlett, Chair of AMSA’s Pretreatment & Hazardous Waste Committee, Director of Water Quality, Hampton Roads Sanitation District, Virginia Beach, Va., at 757/460-4220 (office) or 757/406-6002 (mobile) or [gaydlett@hrsdc.com](mailto:gaydlett@hrsdc.com).