



Association of
Metropolitan
Sewerage Agencies

June 10, 2004

MEMORANDUM

Subject: AMSA 2004 Pretreatment Streamlining Survey Data

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

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

Linda Boornazian, Director
Water Permits Division
Office of Wastewater Management
Office of Water
U.S. Environmental Protection Agency

The Association of Metropolitan Sewerage Agencies (AMSA) is pleased to provide you with data collected from AMSA's 2004 Pretreatment Streamlining Survey. The following data support AMSA's positions on several key issues related to the U.S. Environmental Protection Agency's (EPA or the Agency) 1999 Pretreatment Streamlining proposal (64 *Fed. Reg.* 39564). AMSA is encouraged by your office's recent efforts to finalize this critical rule, which will reduce the unnecessary administrative burden that publicly owned treatment works (POTWs) and other regulatory agencies face under current pretreatment regulations. We believe that AMSA's recommendations, which are further supported via these survey results, have the potential to free up hundreds of millions of dollars – and other resources – for POTWs of all sizes to channel into other high-priority water quality projects. Small- and medium-sized pretreatment programs stand to save over 50% of their operating costs by AMSA's recommendations. Also, the recommended changes would have no negative impacts on the environment, and result in no additional toxic discharges.

On May 11, 2004, AMSA sent a survey to its nearly 300 public agency members and hundreds of non-member POTWs to gather input on AMSA's four highest priority issues related to EPA's 1999 streamlining proposal: 1) equivalent mass limits for concentration limits for categorical parameters; 2) the classification of "non-significant" Categorical Industrial Users; 3) the definition of Significant Industrial Users; and 4) the criteria for Significant Non-Compliance determinations. In response, AMSA

received 98 completed surveys from POTW respondents ranging in size from less than 5 million gallons per day to over 300 million gallons per day. AMSA's positions on each of these four issues received strong support from all of the responding POTWs. AMSA's recommendations and POTW responses on each of these issues are detailed in the attached survey data. It is critical to note, that the responses in the attached document appear unchanged from the manner in which they were received.

AMSA appreciates the opportunity to provide this data to further support its positions 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 and equally protective, and enables POTWs to reallocate much-needed resources to additional environmental protection efforts. AMSA again urges the Agency to seize this opportunity which we have been anxiously awaiting for several years. If you have any specific questions, or need additional information from the survey respondents regarding the attached data, 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@hrsd.com, or Will Pettit, AMSA, at 202/833-3280 or wpettit@amsa-cleanwater.org.

ATTACHMENTS

CC:

Benjamin Grumbles, Office of Water, U.S. Environmental Protection Agency

Jessica L. Furey, Office of Policy, Economics, and Innovation, U.S. Environmental Protection Agency

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AMSA 2004 Pretreatment Streamlining Survey

Response Data

Equivalent Mass Limits for Concentration Limits

AMSA supports the proposed changes that allow Control Authorities flexibility in determining compliance with categorical parameters. While not limited to water conservation opportunities, this flexibility would spur Control Authorities to encourage water conservation practices, thus reducing hydraulic loading on the publicly owned treatment works (POTWs). AMSA supports Control Authorities having the option to determine if an industry qualifies for equivalent mass limits on a case-by-case basis. This flexibility has proven successful for non-categorical, local limits as expressed in the responses below. AMSA is confident that POTWs will ensure that no additional toxics will be discharged, both because such an action would result in permit violation and because POTWs are tasked with one overriding goal – to protect the waterways and the public they serve. AMSA recommends that to verify that no additional toxics are discharged, POTWs use a worksheet similar to that required by the combined wastestream formula.

Overview

In its 2004 Pretreatment Streamlining Survey, AMSA asked respondents to provide examples of concentration limit violations which occurred, or would have occurred, only because there were water conservation efforts in place that led to a concentration of a particular pollutant that exceeded categorical standards. In addition to burden reduction estimates, respondents were also asked to provide examples of how POTWs would ensure that no additional pollutants would be released into the environment and that normal POTW operations would be protected if given the flexibility to use mass limits.

Responses

1) Data in Support of Mass Limits

The following responses, taken in their entirety, to AMSA's 2004 Pretreatment Streamlining Survey show broad, national support for this change. Only the agency and/or facility names have been removed for confidentiality, otherwise we have included all of the substantive responses.

“[Agency name] has identified one user subject to violations due to water conservation efforts applied. In addition to the one identified user (IU), [agency name] estimates that at least 11 industrial users (46 % of discharging permitted users) would pursue water conservation by reducing flows if allowed equivalent mass limits. Users are generally reluctant to admit that they are using more process water than is necessary to produce an acceptable product (thus constituting dilution). However in open discussions with [respondent] staff regarding the concept of mass limits, it has been commented by facility production managers that they would be more willing to try more aggressive water conservation technology if not burdened by purely concentration based limits.

For the single user above, the categorical standards violated were for zinc and copper under CFR 433. Water reduction resulted in the issuance of 3 Notices of Violation (NOVs) and a Consent Order with an estimated staff time expended of 40 hours. As an estimate, if 50% of the other users listed above attempted water conservation resulting in similar concentration violations, the staff time burden would be 200 hours.”

“[Company name], a surface mount technology (SMT) facility, located in [city name] exceeded concentration limits for lead (Pb) due to in-house water re-use efforts. This facility performs wave solder and cleaning/washing on printed circuit boards. [Company name] was categorized as a 40 CFR 433 Metal Finisher due to the gold tab repair process utilizing potassium cyanide. Pretreatment consisted of flow equalization, heavy metal removal (HMR) cartridges (resin beds) and pH adjustment. Water re-use projects accomplished during 2000-2001 resulted in significant reduction in water usage. [Company name] was awarded a Water Conservation Award in 2001 for these water savings. However, [company name] was having a problem meeting the end-of-process Pb concentration limit.

[Company name] was required to meet the concentration limit for Pb of 0.43 mg/L monthly average and 0.69 mg/L daily maximum. [Company name] had (2) NOVs for the monthly average and (3) NOVs for the daily maximum during the 2001 calendar year. If mass limits were calculated for this process discharge, no violations would have occurred. Calculations for mass limits can be fairly straightforward; however, adjustments were made to account for changes in production, which made this task slightly more difficult. Once verifiable data was obtained from [company name], a MS Excel spreadsheet was used to generate before and after concentration limits and mass limits. This exercise was done after the fact, near the end of the pretreatment year amid calculations for Significant-Noncompliance (SNC). Without the flexibility to generate mass limits for categorical pretreatment standards, [company name] was published for Year 2001 in SNC for exceeding the Technical Review Criteria for the monthly average for Pb.”

“This [conversion of concentration to mass limits] has not occurred in our jurisdiction, possibly because categorical industrial users (CIUs) do not implement water conservation measures because they know that if they did, it would result in non-compliance with their concentration limits.”

“We have a 437.26 (Oils Treatment & Recovery Subcategory - NSPS) facility that has had several copper concentration violations based on an extremely low daily flow volume. A mass-based limit would provide significant relief for them with no impact to the environment.”

“Using concentration limits for metal finishers encourages a dilution factor. We harp on industries to be good environmental stewards but we penalize them for incorporating pollution prevention.

For Metal Finishers, Chromium, Copper and Nickel are pollutants of concern for the industry as well as the POTW. Diluting their wastewater to achieve the concentration limits is not cost effective for them or the POTW. The industry is not in the business of wasting their plating baths. If they were encouraged to practice water conservation, their waste streams could be recycled and potentially reused by them or another industry. Our current metal finishers are so small that they can not afford to be in violation. The mass limit would also assist a POTW to tracking down a violator – no dilution to contend with.

Giving a mass limit does not elevate the POTW from federal regulations. Inspections and monitoring would still occur; actually it would motivate industries to report the tiniest production change.”

“It is the feeling of the [agency name] that should mass-based limits be an option for industry, water conservation efforts would probably be implemented by several of the regulated IUs.”

“[Agency name] strongly supports this provision, which would assist us in promoting water conservation measures.

We believe that normal POTW operations would continue to be protected by continuing to implement our local limits, compliance monitoring program, and enforcement response plan. Industries would be evaluated for their appropriate pollutant loading limits prior to water conservation measures in order to set equivalent limits that would apply when water conservation is implemented.”

2) Mass Limits Work for Local, Non-Categorical Standards

The following examples demonstrate the common practice of switching from concentration-based limits to mass-based limits for local, non-categorical standards, with no negative impacts on the environment. This indicates a national need for this flexibility – most notably in arid regions of the country, where water conservation efforts are so critical. These examples could easily apply to categorical standards as well.

“Our only case of violation that occurred because of a water conservation effort was because of Local Limits for a significant industrial user (SIU). The SIU reduced its water usage by 90% resulting in a violation of the concentration based limit but resulted in no increase in the mass of pollutant discharged. Because the industry was an SIU, not a categorical industry, we calculated a mass based limit based on the historical flows and the local limits. This resulted in no increased loading to the plant. The same thing could have happened to a categorical industry and [we] would not have been able to develop the mass based limit.”

“This POTW’s pretreatment legal authority already allows the use of mass limits in lieu of concentration limits for its [non-categorical] local limits when and if it is appropriate and doable. Whenever an IU implements extensive water conservation practices that can be verified and measured, the IU has the option of requesting a permit modification, which if we approve, allows us to convert the local limits from concentration based limits to mass based limits.”

“We have recently switched to a mass based limitation for all of our SIU's. Prior to doing so, one seafood processor desired to reduce their flow by 300,000 gallons per day (gpd) (about 50%) but were precluded from doing so since they were already at the BOD concentration limits and had received several NOVs for violations of the BOD concentration limits. This afforded them the opportunity to reduce their flows and also provided some extra capacity at the POTW for future growth.

The limit violated was conventional BOD. The facility was not subject to any categorical standard. Of the 11 SIU's at the facility only two are categorical, the others exceed the 25,000 gpd flow value. In the almost two years since we have switched to mass limitations, the seafood processor went from 43 BOD violations from 1998 to 2001 and only 2 since.”

“A hospital incinerator and laundry were well within limits of their permit until the laundry started to reuse their rinse waters thus reducing the total flow at the end of pipe. The chloride levels exceeded the maximum concentration limits. As a result, we converted the [non-categorical] standard to mass-based limits.”

“We have established mass-based limits in permits where significant water conservation is evident.

It is my understanding that we already have this flexibility. Permits issued to [company name] and [company name] are examples of utilization of mass based limits.”

3) Mass Limits Would Protect Environment

The following survey responses show how the use of mass-based limits would be protective of normal POTW operations and result in no negative impacts on the environment.

“The flow used to calculate the mass limit would be the flow established from studies used to determine the minimum flow a company needs to effectively operate their process. This is currently used to ensure no dilution. Pretreatment technology defined in the final rule would be used as the baseline. The mass limit would be normalized with production levels to allow for limit increases/decreases as a result of production changes. The POTW does a maximum allowable industrial loading as part of the maximum allowable headworks loading on a regular basis. This would ensure the POTW operations are protected.”

“The use of mass limits would not result in a net increase or decrease in pounds of pollutant discharged over time. The operation would remain the same, with the exception of more efficient use of water. Any change in the pounds of pollutant discharged would be due to a change in the amount of material processed. The categorical mass limits would be compared to the POTW local mass limits to ensure that the POTW is protected. The mass limit evaluation may provide better protection for the POTW because the pounds of pollutant discharged would not be subject to a variable flow volume.”

“The POTW will be protected because the limits are technically based and the pollutant daily mass loadings received from the IU will not change because we would use the daily mass loading to derive the limit in the first place. We would ensure that no additional pollutants would be released into the environment by calculating the mass limit from the published categorical concentration limit the same way other categorical concentration limits are converted to mass limits in the effluent guidelines that do allow such a conversion. A thorough analysis of historical flows and production would be conducted before any concentration to mass based limits would be used to ensure that no net increase in pollutant loadings are realized. We will always use the most stringent limit between the categorical standard and the local limit thus we should never see any increase pollutant loadings to the POTW.”

De Minimis CIUs

AMSA supports exempting a newly defined class of “non-significant” categorical industrial users (NCIUs) from the definition of Significant Industrial User (SIU). Based on gathered information and the Association’s 2004 Pretreatment Streamlining Survey, AMSA maintains that the 100 gpd ceiling that EPA proposed for this exemption 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 include 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% (100 gallons per MGD) 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 Significant Non-Compliance (SNC) for 4 consecutive six-month periods). The final tier would include facilities not meeting these requirements and would continue to classify these facilities as SIUs, subject to existing SIU oversight requirements. For the greatest burden reduction, AMSA proposes reduced oversight (both IU self-monitoring and Control Authority monitoring) for the DCIU and NCIU classes. This change could potentially result in the most significant resource savings for POTWs and IUs. Currently, there are numerous local requirements to ensure an appropriate level of oversight for DCIUs.

Overview

In its 2004 Pretreatment Streamlining Survey, AMSA asked respondents to provide examples where resources could be saved if POTWs were given the option of defining NCIUs as any facility that constitutes less than 0.01% of POTW flow, rather than the 100 gpd ceiling. Respondents were also asked to estimate the percent of headworks loading these facilities represent. Finally, if given this flexibility, respondents were asked to demonstrate how POTWs would ensure that no additional pollutants would be released into the environment and that normal POTW operations would be protected.

Of the nearly 100 surveys received, we have chosen 17 respondents who gave burden reduction estimates in terms of dollars saved. ***The total dollars saved of those 17 responses was \$1,746,067 annually.*** The burden reduction figures came from wastewater agencies, both AMSA members and non-members, ranging in size from less than five million gallons per day (MGD) to over 300 MGD. Seventeen POTWs only represent slightly more than one percent (1%) of the total number of approved pretreatment programs in the nation (roughly 1,500). To get an estimate of nationwide savings that could be realized by this flexibility, one could multiply the above number by 100, giving an ***annual nationwide estimate of \$174,606,700 saved by this option.***

Responses

1) Burden Reduction

The following survey responses demonstrate burden reductions that could be realized if POTWs had the option of defining NCIUs as any facility that constitutes less than 0.01% of POTW flow, rather than the 100 gpd ceiling. Burden reduction estimates were given in dollars saved annually in most instances, but were given in percent of resources saved or employee time saved in some cases. Again, in the responses below, only the agency and/or facility names have been removed for confidentiality, otherwise we have included all of the substantive responses.

“Redefining the definition of CIU to NCIU would result in a 54% reduction in CIU inventory. This equates to a burden reduction estimate of 9 full time equivalents of approximately \$1 million dollars (includes overhead, compensated time off, etc...)”

“With the proposed De Minimis and Non-Significant Categorical Industrial Users category, the projected annual cost savings are as follows :

Number of IUs	Industrial Category	Annual Lab Cost	Annual SMR Processing	Annual Renewal Cost	Total Annual Cost
25	DCIUs	18,174.80	2,500.00	35,000.00	55,674.80
202	NCIUs	146,848.90	25,100.00	282,800.00	454,748.90
					\$510,423.70

The above figures were developed by eliminating any CIU that was in SNC for calendar years 2002 or 2003, or had more than 0.01% of the downstream treatment plant design flow. The headworks loading for organics and categorically regulated parameters was not calculated due to computer limitations; however, since the current headworks loading for many of the parameters is significantly less than the allowable loading, it is not expected that this would be a limiting criterion.”

“The [agency name] has no CIU discharging less than 100 gpd except for 2 non-discharging CIUs. The [agency name] oversees 5 CIUs that discharge between 100 gpd and 1,000 gpd (0.01% of design flow). Resources saved by the [agency name] include:

Sampling and Inspections	\$ 10,130/year
Laboratory	\$ 4,275/year
Permitting	\$ 2,760/year
<u>Administration</u>	<u>\$ 12,850/year</u>
TOTAL	\$30,015/year”

“Again, applying the same daily discharge volume standard for a 0.5 MGD plant as a 52.5 MGD plant is inherently nonsensical. [Agency name] has 22 Users w/ categorical waste streams. If the 100 gpd standard was adopted 1 CIU would fall in that category. However, 6 facilities would fall in the 0.01% category resulting in a \$30,000 annual burden reduction. These IUs represent less than 0.5% of the headworks loading at their respective POTWs.”

“On June 27, 2002, [agency name] received approval from the United States Environmental Protection Agency to implement regulatory flexibilities through its Project XL using the three-tiered classification system described above. Currently, none of the 316 categorical industrial users (CIU) under the [agency name]’s jurisdiction meet the 100 gpd ceiling. In 2002, 44 SIUs were granted reduced reporting requirements after being classified as non-significant categorical industrial users (NCIU) based upon the criteria presented above for the middle tier, with an additional limitation of less than 10,000 gpd discharge of regulated process wastewater. This has saved the [agency name] \$11,385 annually through reduced oversight (monitoring and report review) with regard to these SIUs. By defining NCIUs as any facility that contributes less than 0.01% of the flow, the [agency name] could classify an additional 106 industrial users as NCIUs. The estimated savings would be \$27,427.”

“[Agency name] would save resources involving analytical, inspections, survey sample collection, grab sample collection and administrative. In the [agency name] service area, there would be 7 facilities that could be classified as NCIUs. The quantified burden reduction amounts are as follows: Survey resources including analytical \$8,005/year; Grab sampling resources including analytical \$4,138/year; Inspection resources \$3,489/year; and Administrative resources \$9,622/year for a total of \$25,254/year. These seven facilities represent an average of only 0.005% of the headworks flow loading each.”

“Under these criteria (and assuming also the criteria include a 10,000 gpd maximum flow for NCIUs) two of our current 73 CIUs would become De Minimis CIUs, 22 would become NCIUs, and 49 would remain CIUs. Assuming that we would only rarely monitor the De Minimis CIUs and would monitor NCIUs only once every other year, our major savings would be reduction in monitoring. Because the two DCIUs are zero dischargers, we would not recoup any savings for De Minimis CIUs; however, we would save \$22,079/year in monitoring costs of NCIUs.

The total headworks volume contributed by the DCIUs and NCIUs would be 0.03% of the volume at our [POTW name] and 0.02 % of the volume at the [POTW name]. Total headworks loading of DCIUs and NCIUs at both plants combined would be 0.24% of the Cadmium, 0.74% of the chromium, and 0.71% of the Nickel.”

“If POTWs were given the option of defining NCIUs as any facility that constitutes less than 0.01% of POTW flow, [agency name] would classify 17 such facilities as NCIUs. We estimate that we would save about \$20,400 per year in administrative costs as a result of this change. In addition, each of the affected CIUs would save \$400 per year in permitting fees. The sum of the loadings from these facilities represents less than 0.02% of the allowable headworks loadings for each pollutant regulated by Categorical standards.”

“Facilities meeting the definition of DCIU: 3; Facilities meeting the definition of NCIU: 9; Time spent on NCIU in 2003: 123.97 hours; Cost of NCIU in 2003: \$14299.51”

“Five of the nineteen categorical industrial users would fall under the NCIU definition. All five CIU’s are 433 Metal Finishing operations. [Agency name] estimates a reduction of 140 man-hours dedicated to these industries with regard to sampling, inspection preparation work and sampling. Analytical saving for the [agency name] would be approximately \$3,000.00 and a minimum of \$6,000 for the five industries.

The five potential NCIUs account for 0.03 percent of the plant’s hydraulic load. All five industries have excellent compliance histories.”

“The burden of administering pretreatment duties in our program could be reduced by as much as 33% through eliminating some permitting and inspection activities if a tiered classification system was adopted where NCIUs constituted less than 0.01% (100 gallons per MGD) of POTW design

flow. Eight (of 24) SIUs would be affected in our program. These facilities could save over a combined \$6000 annually in self-monitoring costs. Combined, these eight facilities represent less than .05% of our POTW flow and a proportionate amount of loadings.”

“The 0.01% option would exempt 7 of our SIUs; the 100 gpd option would exempt 4 of our SIUs. Cost reduction would be roughly (\$4000) per industry.”

“The burden would most likely be realized in the processing of self-monitoring data. Reports are currently received twice a year. The streamlining proposes allowing submittals once a year for non-significant CIUs. It also allows for certification of compliance based on a statement rather than data. The reduction in administrative processing of self-monitoring data is estimated at approximately \$3500.00. This figure represents the cost of personnel to process the self-monitoring reports for these facilities. These dollars ultimately would be deferred to other use (rather than saved).”

“If given this option, five of [agency name]'s fifteen permitted SIUs would qualify for NCIU reclassification. Burden reduction is estimated to be approximately 33% of the SIU oversight program component and 4.4% in overall pretreatment program burden, with an annual cost savings in laboratory costs of \$2600. It is estimated that IUs spend approximately 30 person hours per year dealing specifically with pretreatment program requirements, such as self-monitoring, inspections, and preparing and administering to reports and submittals. This burden could potentially be shifted to other aspects of business operations. In addition, it is estimated these five IUs would realize an average annual cost savings in lab expenses of \$350 per IU. These potential burden reductions are presented in more detail in the following table:

Estimated Potential Burden Reduction/Annual Cost Savings			
	*FTEs	Administrative Costs	Lab Costs
POTW	0.21	\$13,500	\$2,600
IU	.02	\$1,150	\$350

* Full Time Equivalent/Employee.”

Percent of POTW Headworks Loadings for each candidate IU are as follows:

1. [University name]:

Percent of POTW Headworks Loadings									
flow	organics	Cd	Cr	Cu	Pb	Ni	Ag	Zn	CN
<0.001	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

n/a - Regulated under 469; no categorical metals limits.

2. [Metals facility]:

Percent of POTW Headworks Loadings									
flow	organics	Cd	Cr	Cu	Pb	Ni	Ag	Zn	CN
0.006	0	0.041%	0.459%	0.002%	0.012%	0.003%	0.019%	0.003%	0.062%

3. [Industrial User]:

Percent of POTW Headworks Loadings									
flow	organics	Cd	Cr	Cu	Pb	Ni	Ag	Zn	CN
0.007	0	0.083%	0.037%	0.050%	0.017%	0.237%	0.036%	0.007%	0.014%

4. [Industrial User]:

Percent of POTW Headworks Loadings									
flow	organics	Cd	Cr	Cu	Pb	Ni	Ag	Zn	CN
0.001	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

n/a - Regulated under 469; no categorical metals limits.

5. [Industrial User]:

Percent of POTW Headworks Loadings									
flow	organics	Cd	Cr	Cu	Pb	Ni	Ag	Zn	CN
<0.001	0	0.005%	0.002%	0.005%	0.001%	0.008%	0.001%	0.001%	0.001%

“In conjunction with the mass limits proposed above, that same user could be NCIU utilizing the water saving measures that could be available to their operation. The burden reduction estimate could be \$2300.00 and 100 hours per year. The facility would represent only 0.02% of the design flow.”

“CIUs would be reduced by one. Thirty hours and \$1,500 would be saved each year.”

“A powder coater iron phosphatizer (metal finisher) that discharges less than 0.01% of POTW flow has not had any pretreatment violations in 10 years. Regulated parameters are typically non-detect or 2 orders of magnitude below limits. Percent of headworks loading is less than 0.01%. Estimated annual burden reduction for NCIU designation option is \$1,500 in sampling and analytical costs and administrative costs for permit issuance and oversight for this IU. The IU would also benefit from savings in sampling and analytical costs and permit charge.”

“[Agency name] administers 24 categorical permits for discharging users (an additional 15 are administered under the “zero” discharge of categorical process water). Under the modified definition, 9 users would remain classified as SIUs (categorical). [Agency name] estimates a burden reduction of 0.6 FTE. The group of IUs that could be reclassified as NCIU currently contributes less than 0.04% of the flow to the [agency name] headworks loadings. Similar low impact is determined for all pollutants of concern.”

“[Agency name]’s POTW treats an average of 30 MGD. Using the 0.01% of plant design in our case would establish a cut-off of 3,000gpd as the cut-off to fit into the second tier. The NCIU tier would affect about 10 out of 44 of our CIU/SIU’s currently. That would result in 10 less Industrial Compliance Inspections, 20 less sampling events by the [agency name], and 20 less Periodic Reports of Continued Compliance to review on an annual basis. Again, also to be considered is the economic relief to the affected industries of not having to pay for additional sampling and the administrative costs associated with having to meet two federal reporting requirements. The percentage of headworks loadings the 10 industries represents is only 0.1%.”

“We have 36 SIUs. If the definition of NCIU was less than 100 gpd, the number of SIUs would drop by 15 (representing .003% of our headworks loading) and our monitoring would be reduced by 20%. If the definition was less than .01%, the number of SIUs would drop by 28 (representing .04% of our headworks loading) and our monitoring would be reduced by 38%.”

“Presently, the [agency name] regulates 121 companies as SIUs. Of these 121, a total of 18 could be reclassified as NCIUs using the 0.01% POTW flow criteria. The [agency name]’s burden would be reduced in the sampling events conducted of these facilities. The NCIUs would not be required to be sampled by the [agency name] twice per year and would not necessarily be monitored up and down stream as is presently done on an annual basis. This would amount to

approximately a 15% reduction in the industrial sampling burden. The savings would be seen in personnel costs, including salary and fringe, for Pretreatment, Monitoring and Laboratory staff since samples would not be collected they would not have to be analyzed and the data does not need to be reviewed. Wear and tear on sampling and analytical equipment would also be minimized. The headworks loadings for metals and cyanide from these 18 facilities are minimal, 0.60% at [POTW name] and 0.28% at [POTW name]. Resources noted above could be allocated to facilities and areas that are more problematic.”

2) Added Flexibility Would Benefit Environment

The following survey responses demonstrate how POTWs would ensure that no additional pollutants would be released into the environment and that normal POTW operations would be protected, if given this flexibility. Also, such flexibility would free up resources which could be redirected to achieve additional water quality benefits.

“We believe that normal POTW operations would continue to be protected by continuing to implement our local limits, compliance monitoring program, and enforcement response plan. Even if an industry was classified as an NCIU, it would still be subject to our Source Control program, and would be regulated as necessary to control the release of pollutants and to protect the POTW.”

“NCIUs would be issued Local Industrial User permits. The POTW would inspect and sample each NCIU at a minimum frequency of once per year. Additionally, the NCIUs would be placed on the surveillance-monitoring program for routine sampling.”

“Regardless of classification all IUs will still be required to comply with applicable categorical standards and related reporting requirements. The Control Authority would still be required to perform the same oversight; however EPA would not establish minimum inspection and sampling requirements. The Control Authority would establish the appropriate level of inspection and sampling at these facilities.”

“The industrial user would still be permitted, monitored and sampled, just not at the same frequency as SIUs. The change in classification would not result in a change in operations at the facility or a change in pollutant loading.”

“We have a number of safety nets in place beyond routine monitoring to insure dischargers are not increasing the pollutant loading of our system. We employ daily influent monitoring at or treatment facilities to identify aberrant discharges and a key manhole investigatory program to trace aberrant dischargers to their source. We also track biosolids quality.

Another reason that we do not expect to see any increase in pollutants at the headworks is that for many of these facilities the monitoring we would no longer do is for pollutants that are not even present. For example during 2003 only 17% of the 175 cyanide samples that we collected were at sites that actually have cyanides present. The same issue applies to total toxic organic monitoring requirement. During 2003 only 2.6% of the 191 TTO samples collected were collected at sites that actually discharge TTO VOAs.

In addition, nine of our categorical facilities are phosphate operations under 413 and 433 regulations. Because they are defined as categorical we have to permit, sample and inspect these facilities. None of the phosphate streams require pretreatment. The great majority of metals samples taken at these facilities are less than 10% of the limits. (Data supporting this finding was submitted to the EPA on March 18, 2004 as part of our comments on the “Preliminary Effluent Guidelines Program Plan for 2004/2005.”). Since this three-tiered system relies to some extent on industrial users self-reporting any changes in their operations, we would modify our Enforcement Response Plan (ERP) to put additional emphasis on failure to report changes. Our current ERP already embraces active enforcement of code and permit violations in addition to discharge violations.”

“The affected industries will be inspected annually and periodically sampled under the cross connection, wellhead/storm water and minor programs. The additional man-hours dedicated to these five industries would be used to enhance our minor program. Please note that several of our industrial users have environmental programs in place for reasons other than the Industrial Pretreatment Program.”

“Over the past 10 – 15 years, [agency name] has collected sufficient process flow data to declassify many industrial users from SIU to Non-SIU, including many government facilities. These facilities have remained as Permittees governed by [agency name]’s local limits. These facilities continue to be inspected once per calendar year as well as being included in [agency name]’s survey and grab sampling programs. The Non-SIUs are also required to self-monitor in accordance with [agency name]’s Self-monitoring criteria. Categorical facilities that could be classified as NCIUs would also fall under the same scenario.”

“All industrial users under the [agency name]’s jurisdiction are subject to an ordinance and local limits. In addition, NCIU status is re-evaluated annually. The [agency name] would continue to monitor the influent loadings of the POTWs.”

“If given this option, NCIUs would transition into the [agency name]’s minor industrial user (MIU) oversight program. NCIUs would be Class 1 MIUs, and receive an annual inspection and sampling for pollutants of concern as least once every five years. In addition, POTW influent sampling for pollutants of concern would continue at a frequency appropriate to ensure representative annual headworks loading assessments.”

“With regard to this issue, the [agency name] has 3 mechanisms to ensure that no additional pollutants would be released: 1) The [agency name] conducts an annual industrial waste discharge survey using lists provided by associated cities and regional governing agency. Surveys are mailed, returned, and evaluated for potential to be incorporated into the [agency name]’s industrial pretreatment program. 2) Annually, the [agency name] evaluates the treatment plant’s headworks loading. If there is a suspicion of extra loading, a slug load investigation is initiated to determine source of extra loading. 3) The [agency name]’s local rules require that any IU discharging greater than 10,000 gpd of process waste and/or requires pretreatment in order to meet local discharge limits, must have a [agency name] industrial waste discharge permit.”

“If given the flexibility to re-categorize these facilities as NCIUs, routine, annual inspections would continue. The [agency name] would continue to take wastewater samples on a case-by-case basis and require that the discharger take field tests for pH, lower explosive limit and dissolved sulfides, as appropriate. Additionally, these facilities would still be subject to local limits and specified permit requirements.”

“If given this flexibility, the [agency name] would ensure that no additional pollutants will be released into the environment and that normal POTW operations would be protected by continuing to inspect these facilities on a regular basis since they would continue to conduct categorically regulated process operations. Periodic [agency name] monitoring of these facilities may also be conducted. These firms will still be required to comply with all the terms and conditions of their permits, including self-monitoring, record keeping and maintaining spill control measures.”

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.

Overview

In its 2004 Pretreatment Streamlining Survey, AMSA asked respondents to provide examples where resources could be saved if POTWs were given the option of a 5% of flow standard for SIU determinations. As before, respondents were asked to demonstrate how you would ensure that no additional pollutants would be released into the environment and that normal POTW operations would be protected if given this flexibility.

Of the nearly 100 surveys received, we have chosen 15 respondents who gave burden reduction estimates in terms of dollars saved. ***The total dollars saved of those 15 responses was \$2,090,170 annually.*** The burden reduction figures came from wastewater agencies, both AMSA members and non-members, ranging in size from less than five million gallons per day (MGD) to over 300 MGD. Fifteen POTWs represent about one percent (1%) of the total number of approved pretreatment programs in the nation (roughly 1,500). To get an estimate of nationwide savings that could be realized by this flexibility, one could multiply the above number by 100, giving an ***annual nationwide estimate of \$209,017,000 saved by this option.***

Responses

1) Burden Reduction

The following survey responses demonstrate burden reductions that could be realized if POTWs had the option to use a 5% of flow standard in all instances to determine if a facility is an SIU. Burden reduction estimates were given in dollars saved annually in most instances, but were given in percent of resources saved or employee time saved in some cases. Again, in the responses below, only the agency and/or facility names have been removed for confidentiality, otherwise we have included all of the substantive responses.

“None of the [agency name]’s current 151 non-categorical SIUs based on the 25,000 gpd flow criteria would be an SIU given the option of a 5% of flow standard for SIU determination. [Agency name] would realize a 30% reduction (151/475) in the number of SIUs and the associated pretreatment program oversight costs. The burden reduction is estimated to be \$875,000 in minimum pretreatment requirement costs.”

“The following table presents cost saving data for [agency name] for non-categorical SIUs greater than 25,000 gpd with flows less than 5% of the POTW design flow:

Number of IUs	Industrial Category	Annual Lab Cost	Annual Self-Monitoring Report Processing Cost	Annual Permit Renewal Cost	Total Annual Cost
12	Commercial and Linen Laundries	2,660.40	2,400.00	16,800.00	21,860.40
67	Food Preparation and Manufacturing	17,755.00	13,400.00	93,800.00	124,955.00
68	Textile Mills, Dye Houses and Finishing Laundries	18,462.00	13,600.00	95,200.00	127,262.00
15	Oil Production	8,202.00	3,000.00	2,1000.00	32,202.00
4	Chemical Manufacturing and Formulation	2,187.20	800.00	5,600.00	8,587.20
7	Chemical Gas Manufacturing	3,827.60	1400.00	9,800.00	15,027.60
11	Groundwater Clean-up	6,014.80	2,200.00	15,400.00	23,614.80
17	Industrial Laundries	9,465.60	3,400.00	23,800.00	36,665.60
3	Glass Manufacturing	821.70	600.00	4200.00	5,621.70
5	Landfills	3,232.00	1,000.00	7,000.00	11,232.00
51	All Others	12,493.60	10,200.00	71,400.00	94,093.60
	Totals	\$72,628.30	\$41,800.00	\$292,600.00	\$407,028.30

“A 5% of flow standard for SIU determinations would result in a 78% reduction (65 SIUs) in SIU inventory. This equates to a burden reduction estimate of 2 full time equivalents approximately \$233,800 (includes overhead, compensated time off, etc...)”

“In 2003, [agency name] permitted 84 SIUs that discharged greater than 25,000 gpd and were not subject to EPA Categorical Standards. If the 5% flow standard had been the criterion for determining SIU status for non-CIUs, the number of SIUs not subject to EPA Categorical Standards would have been reduced from 84 to 10. The reduced number of SIUs would result in 148 fewer inspections and monitoring projects conducted by [agency name] over a three-year permit cycle. Assuming the average annual cost of [agency name] monitoring and inspecting an SIU is \$753 (which includes labor, travel, reporting, and laboratory costs), over a three-year permit cycle [agency name] would save \$111,444.”

“[Agency name] would save resources involving analytical, inspections, survey sample collection, grab sample collection and administrative. In the [agency name] service area, there would be 29 facilities that could be downgraded to non-SIU status. The quantified burden reduction amounts are as follows: Survey resources including analytical \$33,163/year; Grab sampling resources including analytical \$17,142/year; Inspection resources \$15,421/year and Administrative resources \$39,863/year for a total of \$105,589/year.”

“If the 5% standard is used instead of the 25,000 gpd, we would declassify 25 SIUs. This would save us about \$8,000 per month, or \$96,000 per year, on inspection, monitoring, enforcement and record keeping.”

“Eight of our eleven non-categorical SIU’s fall under the >25,000 gpd category. We would incur a cost savings of approximately \$80,000 through a reduction in: analytical, staff and administrative costs. The affected Industries would incur a total analytical cost savings of approximately \$12,000 annually.

Although 403.3(t)(2) currently allows for reclassifying SIU’s @ >= 25,000 gpd if there is no potential to adversely affect the POTW’s operation or violate any pretreatment standard, staff has indicated that the current 25,000 gpd is too restrictive given that most Industrial users have environmental programs in place for reasons other than the Industrial Pretreatment Program.”

“[Agency name] operates 5 regional and 10 “smaller” wastewater treatment facilities. The capacity range is from 0.5 MGD to 52.5 MGD. Applying the same SIU standard for this range of plants is difficult to justify to IUs.

Of the 61 SIUs currently permitted, 17 would be removed if the 5% standard was adopted. This would result in a burden reduction of \$68,000/year. These resources could be deployed in a Fats, Oils, and Grease program we are currently developing.”

“[Agency name] currently classifies 44 Industrial Users (IUs) as Non-categorical Significant Industrial Users (SIUs). Of these 44 IUs, 16 pay a surcharge and are required to be monitored annually. The remaining 28 are also monitored annually. If the existing 25,000 gpd criteria for defining an SIU is eliminated and/or changed to 5% of dry weather flow at the POTW none of these 28 facilities would be classified as an SIU. The “declassification” of these facilities would have the following benefit:

1. Laboratory analytical savings of \$9268.00*
2. Field personnel savings of \$5000.00*
3. Administrative personnel savings of \$4175.00*
4. Total savings of \$18443.00*

*Best-calculated estimate

The elimination of required sampling at these 28 facilities would allow the newly freed resources to be dedicated to other projects. These projects include undertakings such as: locating new IUs, creating and implementing additional pollution prevention programs, and increased monitoring and effort to bring non-compliant facilities into compliance.”

“[City name] has four (4) industries designated SIU based on flow, all of which are industrial laundries. With a POTW design flow of 38 MGD, none would continue to be considered SIU's according to flow under the proposed 5% flow standard. Based on our experience with this industrial category, [city name] would likely continue using permits as a control mechanism. Potential burden reduction if permits were discontinued could result in staff time reduction amounting to as much as \$15,000 to \$18,000 per year.”

“We sample all SIU's once per month. We have several SIU's that contribute right at or slightly below the 25,000 gpd threshold. This requires us to spend about \$10,000-15,000 on sampling and analysis costs. We have recently revisited the flow calculations and were able to remove three SIU's from the program because their flows had dropped below the threshold. We have an additional four to five SIU's who would fall under the 5% limit and could save us an additional \$15-20,000 in monitoring costs. These SIU's contribute little load to the plant, thus by eliminating them we could concentrate on our largest contributors and better control the wastewater entering our POTW.”

“[Agency name] has 2 IUs classified as significant based on process flows greater than 25,000 gpd. Both IUs are hospitals. Elimination of these 2 SIUs would reduce program burdens in the following manner:

Sampling and Inspections	\$ 4,052/year
Laboratory	\$ 1,710/year
Permitting	\$ 1,104/year
Administration	\$ 5,140/year
<u>TOTAL</u>	<u>\$12,006/year</u> ”

“If POTWs were given the option of a 5% of flow standard for SIU determinations, [agency name] would be able to reclassify up to 10 SIUs as non-SIUs. We estimate that [agency name] would save about \$12,000 per year in administrative costs if we could reclassify these 10 SIUs as non-SIUs. Furthermore, each of the affected SIUs would save \$400 per year in permitting fees.”

“Significant resources could be saved with this implementation. The change would reduce the number of SIUs by a total of seven. The hours saved with the classification change would be approximately 210 hours or \$10,000.00 each year.”

“[Agency name] currently lists 36 SIUs. Under a 5% standard (currently 160 MGD plant flow or 8 MGD at 5%), all users would be reclassified as nonsignificant.

[Agency name] estimates 2.2 full-time employees (FTE) to implement full program requirements under current SIU definition. If converted to non-SIU the estimate would be reduced to about 1 FTE or a burden reduction estimate of 1.2 FTE.

[Agency name] administers a permit program for "Class II" users which do not meet the current Federal definition of SIUs and are not classified as categorical. The Class II program contains all of the elements of the SIU program including permitting, inspections, sampling, etc. However the program is not subject to the administrative and prescriptive requirements for record keeping, regulatory agency reporting, inspection and monitoring frequency under the SIU definition. [Agency name] would administer this program to all users not meeting the revised classification of SIU. [Agency name] is confident that the Class II program as currently administered would ensure no additional pollutants would be released into the environment while relieving unnecessary administrative burdens."

"We estimate that the reduction might be about 10% (2 permits)."

"All of our 6 SIU are permitted based on the 25,000 gallons a day definition. Generally the "industries" do not change production. They are inspected and monitored once a year as required. Seldom do we find any changes from the previous years. We spend a lot of time performing inspections and monitoring. Three of the facilities are under interjurisdictional agreement so twice as much paper work is generated. Time and resources would be saved."

"A 5 percent flow standard for SIU determination effectively eliminates all non-categorical SIUs from the [agency name]'s SIU list. This would currently result in an approximate 32 percent reduction in the number of SIUs. A reduction in the amount of regulated SIUs would allow [agency name] to shift staff resources to other areas of pretreatment and away from certain industries currently regulated as SIUs that may not need the level of oversight that is currently required."

"Adoption of the 5% flow standard would allow [agency name] to re-classify most of our non-categorical SIUs. For those 28 SIUs discharging to [waterbody name], a 5% flow standard would correspond to 3.25 MGD, vastly more than they discharge."

"Our POTW has one (1) SIU that would be affected by this change. The user discharges approximately 28,000 gpd. 5% of our design flow is 600,000 gpd. This change would save the

POTW an estimated \$900.00 and free-up 40 hours per year of employee time for other more pressing pretreatment issues.”

“We have 36 SIUs. Of these, six are SIUs based on flow. If the above change were implemented, all six would no longer be classified as SIUs. As a result, POTW monitoring at these facilities would be reduced from quarterly to semiannually (an 8% reduction in monitoring). This change would also reduce the time spent preparing annual and semiannual reports.”

“[Agency name]'s Sewage Treatment Facility is a Class IV Activated Plant designed for 20 MGD. Changing to the 5% option would reduce the number of SIU's from 12 to 2. This would eliminate the monitoring equipment, laboratory analyses and monitoring visits.”

“The burden of administering pretreatment duties in our program by this change would be reduced by 16.7% through eliminating some permitting and inspection activities. Four (of 24) SIUs would be affected in our program. Two of the SIUs are soft drink bottlers, one is a brewery, and one is a seafood processor.”

“Of 233 SIUs, 63 are classified as SIUs by us solely because they discharge greater than 25,000 gpd of process wastewater. All 63 contribute less than 5% of the flow to their receiving treatment plants.

We could have 63 less permits to develop and process, along with processing and tracking associated self-monitoring reports. In addition, we would have the option to reduce the inspection frequency from once a year to once every 2 years for our program. We could likely use about a quarter of man years of labor for other purposes.”

“[Agency name]'s POTW treats an average of 30 MGD. The 5% flow standard would establish 150,000 gpd as the cut off for the SIU definition based upon that flow. We currently have 4 out of 44 industries classified as SIUs based on the 25,000gpd criteria. That would mean an approximate 9% reduction in SIUs. That would result in 4 less Industrial Compliance Inspections, 8 less sampling events by the [agency name], and 8 less Periodic Reports of Continued Compliance to review on an annual basis. Also to be considered is the economic relief to

industrial users in the form of not having to pay for additional sampling and the administrative costs associated with meeting two Federal reporting requirements.”

“Reduction in the number of SIU's would reduce the sampling requirements by between 44 and 66 samples a year which would save an estimated \$1600.00 or more in lab analytical costs, not to mention the time required to perform the analyses by city chemists, and it would save at least 33 hours of field time for inspectors and 60 hours or more for sampling personnel plus a savings in gasoline consumption which is difficult to quantify at this time. It would save administrative time, possibly 15 hours a year, by reducing the number of industries that have to be evaluated for compliance with the semiannual reporting requirements as compliant, noncompliant or significantly noncompliant. It would reduce the amount of time it takes to prepare the annual pretreatment performance summary by at least a couple hours if not more if there were less companies being identified as non-categorical SIU's. The pretreatment performance summary is a very time consuming report that must be prepared once a year.”

2) No Reduction in Environmental Protection

The following survey responses demonstrate how POTWs would ensure that no additional pollutants would be released into the environment and that normal POTW operations would be protected, if given this flexibility.

“Over the past 10 – 15 years, [agency name] has collected sufficient process flow data to declassify many industrial users from SIU to Non-SIU, including many government facilities. These facilities have remained as Permittees governed by [agency name]’s local limits. These facilities continue to be inspected once per calendar year as well as being included in [agency name]’s survey and grab sampling programs. The Non-SIUs are also required to self-monitor in accordance with [agency name]’s self-monitoring criteria.”

“If given this flexibility, [agency name] would ensure that no additional pollutants would be released into the environment and continue to protect its POTW operations by continued enforcement of applicable regulations, continued unannounced facility inspections, and escalating enforcement action where appropriate.”

“Again, on a mass basis, the SIU's with low flow do not contribute significantly to the POTW. We would still regulate those SIU's that do contribute significantly and those that are categorical

users. We could still use the 5% contribution of contaminants as a means of regulating other SIU's."

"[Agency name] would continue to monitor non-SIU industries at its current rate, as well as would continue to conduct inspections at these facilities. The inspection frequency could potentially be somewhat reduced for these facilities. [Agency name] does monitoring of its industrial users to establish billable parameters of BOD, COD, TSS and ammonia-nitrogen to establish loadings for user fee billing along with monitoring for incompatible pollutants. Therefore, monitoring would continue at its current rate."

"[Agency name] would be able to discontinue quarterly reporting requirements by the 28 former SIUs, and reduce the frequency of monitoring. [Agency name] would continue to inspect and sample IUs previously classified as SIUs, but at reduced frequencies (e.g. semi-annually instead of quarterly)."

"We believe that normal POTW operations would continue to be protected by continuing to implement our local limits, compliance monitoring program, inspection program, and enforcement response plan. Even if an industry was not classified as an SIU, it would still be subject to our Source Control program, and would be regulated as necessary to control the release of pollutants and to protect the POTW."

"The industrial user would still be permitted, monitored and sampled, just not at the same frequency as SIUs. The change in classification would not result in a change in operations at the facility or a change in pollutant loading."

"These industries would still remain under a permit. Those with adequate pretreatment and a good compliance record would be reclassified from a Class II (flow SIU) to a Class III (locally regulated) permit, thereby reducing the level of oversight. Our POTW would be protected through our local limits and as a result of our low industrial contribution, which represents only 0.87% of our plant influent flow."

“If given the flexibility to re-categorize these facilities as non-significant industrial users, routine, annual inspections would continue. [Agency name] would continue to take wastewater samples on a case-by-case basis and require that the discharger take field tests for pH, lower explosive limit and dissolved sulfides, as appropriate. Additionally, these facilities would still be subject to local limits and specified permit requirements.”

“The majority of the 475 SIUs under the [agency name]’s jurisdiction are regulated under the categorical pretreatment standards. 151 SIUs are non-categorical SIUs based on the 25,000 gpd criteria. Eight (8) SIUs are non-categorical SIUs based on the [agency name]’s determination as having a reasonable potential for adversely affecting the operations of the WRP or violating any standard of the Sewage and Waste Control Ordinance (Ordinance). All industrial users under the [agency name]’s jurisdiction are subject to the Ordinance and the local limits. Additionally, most of the non-categorical SIUs would continue to be monitored by the [agency name] for user charge or surcharge purposes.”

“The four (4) permitted industries would be covered under our non-CIU/SIU permit (what we call a Class II Permit) and would still have to meet the local limits for wastewater discharge. The determination could be made to further reduce the industry’s status, if appropriate, to a Class III or Discharge Report should it be determined that their net impact is negligible.”

Significant Non-Compliance Criteria

AMSA is concerned that, because of an overly broad definition of what constitutes “significant” non-compliance (SNC), some facilities are improperly being classified as SNC for reasons that have nothing to do with environmental compliance. Because of this, 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.
- SNC determinations should be based on static six-month periods and not on rolling quarters because some facilities are being classified unfairly as SNCs in two consecutive quarters for the same violation.
- 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.

Overview

In its 2004 Pretreatment Streamlining Survey, AMSA asked respondents to provide examples where a compliant facility has been classified as in SNC for filing a report after the 30-day deadline. Respondents were also asked to include the percent of facilities that were classified in SNC solely because of late reports for the last five (5) years. As with other provisions, respondents were asked to estimate burden reduction that would result from each of the three proposed changes listed in the bullets above.

Responses

1) Late Reporting

The following survey responses demonstrate examples where an otherwise compliant facility has been classified as in SNC for filing a report after the 30-day deadline and percentages of total SNC classifications resulting from late reports. Again, in the responses below, only the agency and/or facility names have been removed for confidentiality, otherwise we have included all of the substantive responses.

“If late, it has typically been no more than 5-10 days. All of our industrial contacts have multiple responsibilities and sometimes they lose track of deadlines. We call them and they send us the report.”

“I had a situation where the report was late and it was because the person’s wife went to hospital. I hounded them constantly until the report was submitted. The poor soul called from his wife’s hospital bed. That was pretty sad - but regulation requires it.”

“Typical situations that result in a permitted IU to be considered in SNC for submitting reports more than 30 days after the due date involve: 1) late submittals of Periodic Compliance Reports (PCR) due to delays in the company receiving analytical reports from the contract labs; 2) late submittals of Periodic Compliance Reports (PCR) due to oversight by the company representative; 3) Failure to submit a new or updated Slug Discharge Control Plan as required in a permit.

For the past 5 years, a significant number of our permitted IUs classified as being in SNC for a reporting period has been a result of late submittal of required reports. The number of days after the original deadline when the report/document was finally submitted ranged from 35 days to several months.

Percentage of Facilities in SNC due to Late Reporting:

1999 - 56%
2000 - 50%
2001 - 29%
2002 - 25%
2003 - 62.5%”

“Percentage of Facilities in SNC due to Late Reporting:

2003-25%
2002-40%
2001-30%
2000-5%
1999-17%”

“Percentage of Facilities in SNC due to Late Reporting:

Year	% SNC
1999	38
2000	47
2001	47
2002	64
2003	50”

“A metal finisher who rarely runs his process line has been classified two times as SNC for failing to submit a self-monitoring report within 30 days of the due date.

50% of the SNCs for the past five years have been attributed to late reporting.”

“One industry was classified in SNC because of a late report by a few days. This was in the first year of implementing the SNC definition. We felt at that time and still do, that this was diluting the meaning of a company being in SNC. As a result, we track report due dates closely and send a reminder letter 5 days after the due date. A phone call is then made 5 days before the SNC late due date. As you might imagine, this takes some time and effort. We could spend our time in better ways. We have found that the signatory individual is not always involved with environmental matters and is often the cause for delays. This doesn't make the IU a significant violator in our estimation but the current definition does.”

“Over the past five years there have been ninety-two (92) occurrences of SNC in the [agency name] service area. Eleven of these ninety-two have been for reporting (12%).”

“Two companies were identified in the last pretreatment performance summary as being SNC for submitting their semiannual report after the 30 day deadline. One industry submitted the report 10 days late because the company was going through a change in ownership and they just did not pay attention the reporting requirement and the other company submitted the report 3 days late. The reason the report was late is not known.”

“We have had a number of late reports. Often the cause of delay has nothing to do with the facility, but the laboratory analysis schedule. Of course, the facility could take the samples a little earlier in the monitoring period, but often the cause of being late is due to laboratory analyses not being back yet. Approximately 20% of our pretreatment facilities have been classified as in SNC for late reports in the last five years.”

“Since we established a \$50 late fee for reports received after the due date we rarely have anyone in SNC for being more than 30 days late. However, I believe that paperwork/reporting violations do not pose an environmental threat and should not be subject to the same SNC criteria as an industry who is a chronic or acute discharger of pollutants.

20% of the SNC in the last 5 years are a result of late reporting. All occurred in the same year. Three industries were new permittees not familiar with the monthly reporting and the CIU was 31 days late causing them to be in SNC by one day.”

“Each year between 40 and 50 companies are on the SNC list for late reporting. The amount of time the report was late varies. Some of the causes include laboratory delays, company forgot, “it must have gotten lost in the mail,” death in the family, etc.

The 2003 SNC list named 196 companies. 101 were restaurants/non-pretreatment cases.

Of the 95 pretreatment cases:

43 late reports
52 TRC
22 both

Approximately 22% of the industries categorized as SNC were for late reporting only.”

“[Facility name] – Results due 8/10/03, received 9/30/03 – Phenols data was left off the report due to interferences and was not caught by the contract laboratory or the regulated facility.

[Facility name] – May 2003 certified data due 7/10/03, received 10/3/03 – Facility experienced a change in personnel that resulted in the certified data not being submitted on time.

[Facility name] – Results due 6/10/03, received 7/15/03 – Data was mailed but not received by [agency name].

[Facility name] – Data due 6/30/03, received 8/8/03 – Facility forgot the due date for the semi-annual TTO certification letter.

Percentage of Facilities in SNC due to Late Reporting:

1999 – 2 of 5 – 40%
2000 – 3 of 7 – 43%
2001 – 7 of 9 – 78%
2002 – 1 of 6 – 17%
2003 – 5 of 7 – 71%”

“For the calendar year 2002, 64 industrial users under the [agency name]’s jurisdiction were found in SNC for reporting reasons by failing to submit a report within 30 days of the report due date. Of those 64 industrial users who were published in the newspaper as being in SNC, 57 were published solely for reporting reasons. Eight of the delinquent reports were received between 31 and 45 days late. Various reasons, for which we do not have specific information, were cited as the cause of the late reports.

Based on the past five years of the annual publication list of industrial users found to be in SNC, the percentage of industrial users in SNC for reporting reasons only are shown below.

Publication Year Compliance Year	1999 1998	2000 1999	2001 2000	2002 2001	2003 2002
Number of Industrial Users Published for SNC	62	77	68	62	76
Number of Industrial Users Published for Reporting Reasons Only	32	54	57	47	57
Percentage	52%	74%	84%	76%	75%

“24 of 60 in the last 5 years are 45 days or less and all were compliant with discharge limits for reports in question.

Percentage of Facilities in SNC due to Late Reporting:

Total 60/89 or 67.4%

11/16 or 68.8% for April '03 – March '04

15/25 or 60% for April '02 – March '03

14/21 or 66.7% for April '01 – March '02

13/17 or 76.5% for April '00 – March '01

7/10 or 70% for April '99 – March '00”

“Every year [agency name] receives a small number of reports that are submitted past the 30-day deadline, and these IUs are classified as SNC. Much of the time, late reports occur because companies forget to submit the reports, forget to conduct self-monitoring or experience staffing changes or communication failures among staff.

Over the past five years, the number of days has ranged from 31 to 281. Specific ranges for each of the last five years are listed in the table below.

Table (a) – Range of Days Late For Years 1999 – 2003

Year	Range of Days Late
1999	42 – 281
2000	41 – 216
2001	32 – 260
2002	35 – 69
2003	31 – 141

Over the past five years, [agency name] has had to classify a very small percentage of IUs as SNC for late reports violations under the current EPA SNC criteria. Specific numbers are listed in the table below.

Table (b) – Number of Facilities Categorized as SNC in Years 1999 – 2003

Calendar Year	Number of Facilities Categorized as SNC for Late Reporting	Equivalent Percentage Of IUs Published as SNC	Equivalent Percentage Of All IUs
1999	Total = 13 of 25 IUs published In compliance on 12/31/99 = 11 Not in compliance on 12/31/99 = 2	52%	1.7%
2000	Total = 7 of 28 IUs published Number in compliance on 12/31/00 = 6 Number not in compliance on 12/31/00 = 1	25%	0.9%
2001	Total = 11 of 26 IUs published Number in compliance on 12/31/01 = 10 Number not in compliance on 12/31/01 = 1	42%	1.3%
2002	Total = 3 of 20 IUs published Number in compliance on 12/31/02 = 3 Number not in compliance on 12/31/02 = 0	15%	0.4%

2003	Total = 7 of 19 IUs published Number in compliance on 12/31/03 = 7 Number not in compliance on 12/31/04 = 0	37%	0.9%
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“Over the past five years (1999 through 2003) the [agency name] has published 55 facilities as being in SNC for submitting reports after the 30-day deadline. These firms are issued Notices of Violation for non-submittal and telephone calls are made to remind the company to submit the report. A majority of these companies were published for submitting only one report after the 30-day deadline during the review period. The reason for the late reports range from reports being mailed to the [agency name] late to forgetting to collect the sample. One specific example where a compliant facility was determined to be in SNC for filing a report late occurred in 1999. A self-monitoring report was submitted 31 days late because the facility contact person passed away. All other reports prior to this event and after have been submitted on time. This company was and still is a good environmental performer. The report was only one day late and should not have been considered as significant since there was no adverse environmental impact.

The percentages of industries that were classified as being in SNC for late submittals of reports only are as follows:

<u>Year</u>	<u>% Total Industries Regulated</u>	<u>% Industries listed as SNC due to Late Reports</u>
1999	6%	50%
2000	2.4%	32%
2001	4.2%	14.8%
2002	1.8%	22.2%
2003	2.1%	40%

“In 2003, there were 362 IUs, out of a total of 569, that were SNC solely due to filing late reports. Attached Table I provides one page of a sample printout of companies in SNC 2003 only due to late SMR reports. Table I also shows how late each report was filed beyond the 30-days required due date. All these facilities have been in full compliance with all other discharge requirements. The companies reported variety of reasons for submitting their reports late (i.e. forgot, personnel changes, family and health emergency, lost paper work etc.). Additional lists of companies can be furnished upon request.

The Table below shows the percentage of IUs categorized as SNC for late reporting reasons only over the last five years.

YEAR	SNC TOTAL	SNC LATE REPORTS	PERCENT
2003	569	362	64 %*
2002	242	48	20 %
2001	194	57	29 %
2000	253	49	19 %
1999	270	56	20 %

*As a result of an EPA initiated pretreatment program audit in 2002, the [agency name] amended its procedure for determining late SMR submittals thus causing this significant increase in SNC for 2003. It should be noted that with enforcement efforts, essentially all the delinquent self-monitoring reports were eventually received.”

2) Burden Reduction

The following survey responses provide estimates of burden reduction that would result from each of the three proposed changes listed in the bullets above. Again, in the responses below, only the agency and/or facility names have been removed for confidentiality, otherwise we have included all of the substantive responses.

2a) 45-Day Late Reporting Proposal

“Reporting: 45 day period is more fair and realistic given the multiple demands on our facilities.”

“The only SNC violation for an [agency name] IU in 2003 was the 37-day late report. The reporting requirement for SNC notification caused a minimum of 10 hours of staff time to prepare and process the required publication, in addition to processing the violation report. A burden reduction of 15 hours of agency time and 10 hours of IU time is estimated for extending the violation reporting requirement to 45 days, for each such violation.”

“Estimated burden reduction: Late reporting - Labor savings of 0.1 FTE per year and from \$500 to \$1,500 by not having to publish as large (if at all) a SNC publication in the local newspaper.”

“I don’t believe changing the deadline from 30 to 45 days will lessen the burden, most of the late reports are submitted more than 45 days after the end of the sampling month; however, I do believe that late reporting should **not** be used to determine SNC.”

“45 day reporting - 3 hours per reporting period of time saved”

“Extending the reporting period from 30 to 45 days does little to relieve the regulatory burden. It offers IUs greater time flexibility in submitting reports. The burden of tracking and receiving reports is equivalent, regardless of time frame.”

“There are many laboratory analyses that have a holding time greater than 30 days. There are not many that have holding times greater than 45 days. Increasing the late reporting deadline to 45 days would be a great help to these facilities and the laboratories that serve them. Almost all of the late report violations would have been eliminated if the late report time frame was 45 days instead of 30 days.”

“Bullet # 1 – No reduction because all late reports exceeded 45 days. We would like to take this opportunity recommend the deletion of SNC criteria for reporting where there is no associated environmental damage. We have filed comments previously with AMSA and the EPA advocating this change. Such a move would save our program approximately 50% of the \$11,000 we average spending annually to publish violations.”

“Changing the Late Report Requirement from 30 Days to 45 Days

Over the past five years, [agency name] has not had to categorize a substantial number of IUs as SNC for submitting reports greater than 30 days past due. If the late report deadline were changed from 30 to 45 days, [agency name] would realize only minor reductions in the number of facilities classified as SNC. These reductions are listed in the table below.

Table (c): Estimated reduction of Facilities Classified as SNC

Year	Number 30 days late	Number 45 days	Number Reduction	Percentage Reduction
1999	13	12	1	7.7%
2000	7	5	2	28.6%
2001	11	8	3	27.3%
2002	3	1	2	66.7%
2003	7	5	2	28.6%

Administrative costs for classifying one to three less IUs as SNCs each year would result in a minimal burden reduction of man-hours, which is equivalent to negligible savings per year.

In addition, all of the reports classified as over 30-days late over the past five years were in compliance with all other applicable pretreatment standards. If late compliant reports were not deemed as SNC, [agency name] is not sure if there would be much of a burden reduction. The number of late reports over 30 or 45 days would still need to be determined, along with their compliance status.”

“A burden reduction associated with extending the 30 day late reporting requirement to 45 days would be realized. The number of files needed to be reviewed would be reduced as would the number of companies listed in SNC. This would reduce the administrative burden associated with preparation of the advertisement and tracking reimbursement for the advertisement. The size of the ad may be reduced thereby saving associated advertisement costs.

The [agency name] agrees with extending the late reporting requirement from 30 to 45 days. However, determining SNC for late reporting in conjunction with compliance is not recommended since non-compliance with discharge limitations is addressed in other SNC criteria. The [agency name] recommends user history should be taken into account when determining SNC for late reporting. A firm submitting only one report a few days late during the review period should not be considered to be significantly non-compliant if there are no adverse environmental impacts. If a company submits more than one report late the company has established a pattern and should be considered as being in SNC.”

“By extending the 30-day late reporting requirement to 45 days, it is estimated there would be a 34% reduction in the number of IUs that were SNC last year due to late report filing (i.e. 362 to 238 IUs). Consequently, this would result in a reduction of approximately 25 to 30% in man-

hours spent preparing (cost savings of \$3,600.00) the SNC list. Supporting data can be provided upon request.”

2b) Static Six-Month Review Period Proposal

“SNC Review Period: We already base our determination on a static period (January – June, July – December).”

“The [agency name] also supports the SNC determination be based on static 6-month periods and not rolling quarters. This would save administrative time in reviewing SNC in that only two 6-month periods per year would need to be evaluated as opposed to four using the current system. However, industrial users should not be classified in SNC for the same violation in two quarters since the current pretreatment regulations only require annual publishing of SNC. Therefore, there are provisions to avoid a company being cited twice for one violation.”

“A static six-month SNC evaluation reduces the time spent on calculating compliance by 50%. In addition, reporting to the approval authority is reduced by 50%. Since [agency name]'s pretreatment program is a large program, this reduction accounts for a substantial amount of time and resources. Currently, two program staff members are dedicated to calculating SIU compliance in addition to performing other duties.”

“Although seldom, there are occasions where an IU will be classified as SNC during two different quarters; this can be addressed by revising the existing rule and by requiring the IU to be published only once. However, static quarters would make SNC determination easier and would help the industry understand the process; which would mean less meetings and correspondence.”

“The proposal for static six month calculation is definitely needed. We have had industry not only listed as SNC for the same single violation; we have had to publish the industry as in SNC for two consecutive calendar years for that same violation. This is overkill and unfair to the industry.”

“Six month fixed SNC review period - Would reduce time spent on reviews by 32 hours per year.”

“SNC determinations based on static six-month periods rather than rolling quarters would be embraced. The reduction in administrative burden would be significant. Time estimates would be approximately 20 hours with an associated manpower cost of approximately \$1000.00.”

“Bullet #2 - Each time an industrial user has a discharge, code, and or self-monitoring violation, investigators review the data to determine SNC status. A static review period would simplify the review process.”

“Determine SNC Using Static Six-Month Periods

[Agency name] agrees with AMSA that the rolling quarters needs modification, however, using a static six month period does not eliminate the problems of determining SNC with one data point, if the point is generated near the end of the six month period.

[Agency name]’s position on the matter of rolling quarters in assessing SNC is that the two quarters (six-month period) used in judging SNC should always roll forward from the quarter that the initial noncompliance occurred. For example: If an IU exceeded pretreatment standards in January, February, or March, all available data points from January through June would be used in assessing SNC. If the violation occurred in April, May, or June, SNC would be assessed based on all available data points from April through September.

Using this method would allow the IU to correct the problem and conduct additional compliance monitoring. If noncompliance could not be immediately achieved (i.e., significant noncompliance) the additional monitoring would indicate this, and the IU would most likely be published. In addition, using this method would eliminate the awkward publishing situations such as: (1) publishing an IU that conducted their required one day of self monitoring near the end of a quarter providing the only data point for the six month period, or (2) the situation where the control authority conducts monitoring of an IU near the end of a quarter, possibly providing the only data points in that six month period, which result in SNC without the IU having any knowledge of the situation, or opportunity to resolve the problem.”

“The burden reduction associated with basing SNC determinations on static six-month periods instead of rolling quarters would be realized by the [agency name]. The [agency name] publishes

the names of firms in SNC annually. If a company is in SNC in more than one quarter the name of the firm is only listed once and the quarter is not indicated in the advertisement. If the review periods were static six-months, [agency name] would only need to review the files and reports twice per year instead of four times saving staff time. This is time that can be reallocated toward problematic facilities. A greater burden reduction would be seen by the regulated community since they will know when period ends and not have to worry about overlapping months. They will know when resampling needs to be completed and submitted.

The [agency name] recommends SNC be evaluated on an annual basis instead of quarterly or biannually. This would allow companies to complete resampling without the time constraints of rolling quarters or biannual deadlines. Often firms conducting required sampling are not aware they are in non-compliance until after the quarterly review period ends eliminating the possibility of resampling during the quarter. If these constraints are removed, the non-compliant firm can conduct resampling in a timely manner and avoid being listed in SNC. This will reduce the number of firms listed in SNC and be a great burden reduction to POTWs. An administrative burden will be minimized by reducing staff time for file reviews, preparation of the advertisement, and tracking reimbursement of funds for the ad. This is time that can be redirected to problematic facilities.

The [agency name] also recommends the EPA implement the same review periods for all regions to ensure all Pretreatment programs are evaluated in the same manner thereby leveling the playing field between programs. This will also help companies with locations in different regions.”

“(Static quarters vs. Rolling quarters) 40 hours per year (\$2000)”

“Because of the large number (207) of IUs included under the TRC and CVC criteria, it is difficult to determine the burden reduction with a static six-month period for SNC evaluation. However, it is estimated, given the [agency name]’s expertise in determining SNC, that there could be a 50% reduction (25 to 30% reduction in man-hours; cost savings \$3,600.00) in the number of IUs that would be included in the SNC list for CVC and TRC Criteria with the modified reporting period.”

2c) Technical Review Criteria Proposal

“TRC: Almost every SNC facility in the past 12 years has been classified as SNC due to a TRC violation. The approach for TRC of adding a 20 or 40 % “cap” based on pollutant type seems arbitrary and a more technically sound and defensible system should be developed. Most all of

the facilities that we have classified in SNC based on TRC did not have the potential to impact our operations or the environment.”

“The second bullet point that discusses the need for EPA to develop relevant Technical Review Criteria (TRC) is supported by the [agency name]. The [agency name] feels that the current TRC values having been borrowed from the National Pollutant Discharge Elimination System program do not relate specifically to industrial discharges, which do receive some level of treatment at the POTW.”

“Existing TRC criteria are extremely difficult to implement for some categorical criteria. In particular, monthly average violations that meet TRC criteria can cause an IU to be in SNC with a single violation if sample events are not distributed throughout the 6-month period. Elimination of this condition would cause a significant burden reduction in reporting and follow-up scheduling and sampling, estimated at a minimum of 16 hours for each such violation.”

“TRC definition - 8 hours per review period of time saved. 90 % of the IUs in SNC are because of too little monitoring data available to prove compliance. A company could have no violations for years and then have a violation of the monthly average by more than 20% (and still be below the daily max.) on the last day of the month. Even if the day after the violation (taken in the next month) shows compliance, the TRC calculation can still define the IU in SNC. A significant amount of sample scheduling takes place by the IU to ensure time to resample and utilize averaging of samples. No estimate of the time spent by IUs on neither scheduling nor the extra money paid for early month sample collections from contract labs are available. This has turned into a matter of who is the best scheduler and not who operates the best treatment system.”

“Changes to the Technical Review Criteria would be welcomed; however, the review would still exist just under different standards, therefore there is unlikely to be a reduction in administrative burden.”

“Revise TRC criteria: Looking at the last three calendar years, 72% of the numerical SNC findings were for TRC only violations. If TRC were eliminated, we would see a corresponding reduction in SNC. Modifying the TRC level to reflect POTW concerns would also affect the large

majority of SNC findings. As far as a reduction in burden, most of our companies resolve the cause of SNC without need for a compliance order. Those that fail to take sufficient additional samples, however, then end up in SNC. Our SNC publication cost would probably drop by half, from \$4000 to \$2000 each year, due to the smaller list. No large savings are expected in man hours, perhaps two or three man days, since the primary savings would be in not having to notify the companies of their placement in SNC.”

“Bullet # 3 – TRC – Over the past 5 years industrial users were cited for being in SNC 12 times for non-reporting SNC criteria. Only 4 of those were for the TRC criteria. Assuming none of these 4 instances would violate TRC under revised criteria, the savings to our program for the 4 instances noted would be \$6,330.”

‘Develop More Relevant TRC

[Agency name] does not oppose revisions to the Technical Review Criteria; however, [agency name] believes using a percentage of data points is warranted, because it is easily quantified and is explainable to the affected IU. If the criterion is to remain at 1.2 times the pretreatment standard, or if another factor is to be used, [agency name] feels it should only apply to the daily maximum pretreatment standard. By applying this criteria to the long term standards, there is the possibility of having data points generated during a one month period (in the case of a Metal Finisher as an example) where all the points are below the daily maximum limit, the average for the month is below the monthly average limit, but more that 33 percent of the data points are greater than 1.2 times the monthly limit thus indicating SNC.”

“(TRC)

40 hours per year (\$2000)”

“The [agency name] agrees that the existing TRC criteria is arbitrary and does not address or support objectives of the pretreatment program. The IUs included in SNC for 2003 under the TRC criteria are by no means impacting receiving waters, rather their discharges are fully treated by the [agency name]’s treatment plants and in nearly every case without causing any interference and/or pass-through. In fact, there were only four (4) IUs that were included in SNC 2003 that were determined to cause interference and/or pass-through at the [agency name]’s water reclamation plants. Because of the uncertainties as to what the new TRC criteria would be, the [agency name] is unable to determine the burden reduction.”