



# Inside Pretreatment Newsletter

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I get several emails per month asking me if I have heard of any pretreatment job openings or if I know of any coming up. If you have any such openings, please send them to me and I will put them on the Latest Pretreatment News page on my website.

Please forward this Newsletter to Other POTWs. Subscribe at [www.CWACS.com](http://www.CWACS.com)  
897 subscribers and climbing.

## Up-to-Date News Items

My webpage started getting too messy so I had to move the news items to a separate webpage. See the link for it on the right hand side under the training listings. Click on “Latest Pretreatment News and Related Information” link.

Newer items include:

EPA has provided notice of its Preliminary 2010 Effluent Guidelines Program Plan. Federal Register: Monday, December 28, 2009 (Vol. 74, No. 247). This is worth reading. EPA chooses industrial categories to focus on (for pretreatment) based upon the potential to cause or contribute to Interference and Pass-Through. EPA is proposing to focus on Health Care Facilities (EPA wants data), Steam Electric facilities and Oil and Gas Extraction. The latter two categories are primarily direct dischargers. ***Note: EPA is again ignoring dental facilities even though data shows: The most significant source of mercury to POTWs is from dental facilities, states are continuing to grant variances to POTWs due to Pass-Through of mercury, and the technology for treatment is well defined and understood.*** This is really strange (well, actually politics control this decision at EPA. It is just sad to see the Effluent Guidelines program continuing to be driven by politics rather than science).

EPA releases its National Lakes Assessment

EPA has extended the comment period on the proposed Effluent Guidelines for the Airport Deicing Category. The public may submit comments on the proposed rule through February 26, 2010. Federal Register: December 14, 2009 (Volume 74, Number 238), Pages 66082-66083.

9 POTW Study: Occurrence of Emerging Pollutants (9/09).

### **Upcoming Training**

#### **Local Limits, Inspecting Industrial Users and Enforcement**

Scottsdale, Arizona, February 23-24, 2010: Local Limits and Inspecting Industrial Users

Fort Smith, Arkansas, April 6-7, 2010: Local Limits and Inspecting Industrial Users

Grand Junction, Colorado, May 24, 2010: Enforcement (*NEW*)

Minneapolis, Minnesota, June 2010 (TBA): Local Limits (2 day course)

All training is limited to smaller groups (generally 30 or less) to facilitate discussion. For more information and registering, please go to: [www.CWACS.com](http://www.CWACS.com).

*Also note that I have tried to list upcoming conferences and workshops that are happening on my website. If you know of other meetings hosted by non-profits or government agencies, let me know.*

### **Company Claiming it can Withhold Chemical Info from a City**

There was a facility in Arkansas that claimed providing MSDS's, chemicals used, and process descriptions to a POTW inspector was exempted as Chemical-terrorism Vulnerability Information (CVI) under the Chemical Facility Anti-Terrorism Standards. Below is the clarification I received from the Department of Homeland Security. This link provides some information: [http://www.dhs.gov/files/laws/gc\\_1166796969417.shtm](http://www.dhs.gov/files/laws/gc_1166796969417.shtm)

Rudy and Allen in Region 6 worked on this issue and got the following response from the CSAT Helpdesk (good job guys):

“CVI is a special security classification designated by DHS to cover ONLY the information collected in CSAT so that it is protected as sensitive but unclassified. The information in CSAT (Top Screen, Tiering Letter, SVA or SSP) becomes CVI when it is submitted to DHS. At that point the survey(s) with the questions and facility's particular answers becomes a DHS Federal record and must be protected as CVI.”

“Anything that is the company's own business (i.e., chemical inventories, security plans, training record, etc.) is not considered CVI. It would be considered CVI only if it is submitted to CSAT. You cannot receive/share any information that comes out of CSAT except with other CVI trained individuals with a need to know. Therefore, information is not CVI unless it is a copy of a submitted CSAT survey with questions and answers. Information submitted to other agencies is not CVI.” CSAT HelpDesk 866-323-2957

If anyone runs into this, just remember that the only item that is CVI is the CSAT survey, not the information that may be on the form.

### **Michigan Amalgam Separator Law - Update**

I have not heard from Region 5. They indicated that the review of the Law by EPA would be completed in late December or January. See the February 2010 Newsletter.

### **EPA/state Variances and Exemptions – Help Find These**

I am compiling a listing of variances and exemptions that EPA and the state have granted pretreatment programs. I have received several examples of these and have seen others appearing. It would be good to have a listing of variances/exemptions someplace for use by all POTWs. PLEASE, if you have examples, please provide to me. Some of the ones I have received are: specific manufacturing processes being exempted from regulation (metal finishing), exemption of certain testing requirements for categorical industries, new source decisions, etc.

If you have these, provide a copy of the letter granting the variance/exemption or interpretation. I can include these in the Latest Pretreatment News webpage. If I granted any in Region 8, send me those. I will post them!

### **Case Study: Enforcement**

In my November 4, 2009 Newsletter, I did a short article on the EPA Clean Water Enforcement Action Plan. You can download a copy of this EPA document at: <http://www.epa.gov/oecaerth/civil/cwa/cwaenfplan.html>

In general, EPA committed to aggressively target enforcement on the worst of the violators, strengthen oversight of state program enforcement actions, and improve transparency and accountability.

*I have received a number of audit reports from throughout the U.S. in the last six months (Thanks!). If you have one that you believe I would enjoy reading, or you have a question about any part of it, email it to me!*

Out of these audit reports, I received one pretreatment audit report that was interesting. I decided that this would be an interesting case study. I will not be using the name of the City or identifying the state or EPA region involved. That would not add much to the case study. However, I believe this audit report accurately reflects problems at the POTW pretreatment program. The audit report clearly documents that the POTW failed to implement and failed to enforce its program in the past with continuing violations. In my previous life, I was the lead on a number of EPA enforcement actions against POTWs for pretreatment violations. This is what

we would have called a silver medal case: a large city that appears to have chronic violations of the most basic pretreatment program requirements (identifying users, categorizing users, permitting SIUs, inspecting SIUS, enforcing for violations, keeping local limits and legal authority up-to-date, etc).

I want to say that I hate to see any POTW get into this situation. If you think you may not implementing or enforcing your program appropriately, get some help. Don't wait until someone comes along 8 years down the road and starts uncovering the problems. EPA, I know, is very good at uncovering violations (they will often do a 308 Order and request all of your pretreatment records). Seldom do POTWs direct the auditors to potential problems so the audit can be used to solve the problem (though I had most POTWs trusting me enough to do this in a low profile manner by the end of my EPA career - they knew I would not be malicious). I know the tendency is to say "they never told me we were violating". Please read past newsletters on this topic. The municipality has to exercise due diligence when implementing its approved program and complying with an NPDES permit (ask your attorney what due diligence is). Take the ego's out. Your senior management (public works director, city manager, mayor, etc.) should be fully informed of problems early on and give them the opportunity to get resources to help address problems. It is of no service to elected officials, senior management, city staff and the public to be surprised by an enforcement action that may include substantial penalties.

This case study will take the reader through the audit report, how the State and EPA react to the violations, the POTW's response to the audit report, enforcement actions, etc. This is a worst case scenario for a POTW. This is a worst case scenario for a state (large city in the state, politically connected and enhanced oversight by EPA expected). However, I can attest to the fact that EPA is pretty well insulated from political interference when taking an enforcement action and the enforcement staff like cases that provide an opportunity (aside from just penalties) to send a clear message that deter others from similar violations.

I believe that the case study will allow this Newsletter to open discussion about adequate resources, due diligence, permit as a shield, management accountability and training, decision making, and what it really means to be "business friendly". I fully endorse the philosophy that you should be business-friendly when implementing your pretreatment program. Industries respect pretreatment programs that are competent, consistent, and keep them fully informed of requirements and problems. Industries understand that a good permit and a fair enforcement action provide them a shield or protection against state or EPA enforcement actions in most cases (and probably citizen lawsuits). A bad permit, lack of enforcement or ignoring industries just raises a "red flag" for state and EPA oversight and overfilling of enforcement actions. A city should never hesitate to provide a legitimate shield to industries where those industries have the intent and take actions to comply with pretreatment program requirements.

This will be an on-going case study and will probably last for some time. Maybe it will die "on-the-vine". Either way, it will be instructive. EPA's new commitment in the National Enforcement Strategy to increased transparency should make this case study easier!

### **Local Limits Software Available**

Want to view this software being used? You can check out the software at the CWACS website and see [videos](#) of it being used. The software allows POTWs maximum flexibility to develop local limits for sectors of industrial users that the POTW chooses (e.g. Significant Industrial Users (SIUs) only, SIUs and Permitted Non-SIUs, etc). This spreadsheet provides the POTW with the tools to organize and evaluate input data. [Download a brochure here.](#)

### **Best Management Practices and 40 CFR Part 403**

I am working hard on how BMPs integrate with pretreatment regulations, local legal authorities and the effect of the Streamlining regulation adoption. There is an almost case-by-case approach to how states and EPA are implementing requirements. This has been causing angst among POTWs, even with the EPA streamlining guidance provided by EPA. I will provide a review of this topic. I am not sure there will be any answers but POTWs need to have a better understanding of the regulatory requirement vs. guidance regarding their programs. The questions that I will help you identify are ones that you should pose to your Approval Authority if you need specific answers.

**CWACS** offers a full range of pretreatment program support activities. Please ask us for a bid on your next project and include us on your list for future Request for Proposals (RFPs). CWACS offers support on an hourly and project basis. Visit our website or download a [brochure here](#).

Newsletters reflect the opinions of CWACS. They are not intended to change what a specific POTW, state or EPA may require.

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