



Inside Pretreatment Newsletter

December 8, 2009

In this Issue (30th Newsletter I have written):

POTW Question on acts of God.
Local Limits Training
Local Limits Spreadsheet
Keeping up-to-date with News
EPA Publishes New Effluent Guideline

If you have links to new information, topics for newsletters, etc, please email them to me.
Always looking for ideas for future newsletters.

This is the final newsletter for 2009. I hope everyone has a great December and enjoys the new year. Winter has settled in here (still below zero at 9am today). I am going to have to boost my marketing efforts in the warmer latitudes. *Special winter rates are available!*

Please forward this Newsletter to Other POTWs. Subscribe at www.CWACS.com
895 subscribers and climbing.

Michigan Amalgam Separator Law - Update

Region 5 indicated that they would have an update to this after December 31st. I will update this again in January.

Interesting IU Permit Question from a POTW

A POTW recently asked me if I had heard of states requiring “Act of God” language to be included in SIU permits. Texas has the following language in its State Law “If a person can establish that an event that would otherwise be a violation of a statute within the commission’s jurisdiction or a rule adopted or an order or a permit issued under such a statute was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of that statute, rule, order, or permit.”

It seems that since the POTW was required by the State to adopt this provision and include it in SIU permits, an IU decided that a rainstorm had caused its treatment ponds to violate TSS due to runoff and therefore the violation was an Act of God under this provision.

I love these questions. I had to think about this question, but I think that the conclusion is clear:

“Act of God” is a legal term for events outside of human control, such as sudden floods or other natural disasters, for which no one can be held responsible. However, the failure to assure that adequate treatment is in-place for any event that is less than an Act of God would not be a

defense to effluent violations or failure to install adequate treatment. The IU knew that runoff into the treatment ponds was expected. This rainstorm was not unusual (100 year storm) and the runoff reasonable anticipated. The IU should certainly reduce its incoming wastestreams (divert stormwater) to allow for the current treatment system to meet standards or expand/add treatment to assure that permit limits are met. These violations are foreseeable without a change being instituted.

I would love to testify for a city on this type of challenge! My biggest concern is that where states or EPA are requiring you to include provisions that are unique, they should be providing guidance (in this case legal guidance) along with the requirement. Remember, it is the POTW and not the state or EPA that will have to defend this in court. They will not be in municipal court with you unless they do so without notifying their legal counsel. I discussed this in a prior newsletter.

Local Limits Training
May 24, 2009 Grand Junction, CO

This is a 1-day Workshop and is designed for POTW pretreatment professionals that would like to develop expertise in calculating and adopting local discharge limits. This Workshop is designed for approved and non-approved pretreatment POTWs. This Workshop will provide focused training on four major areas:


1. Calculating local limits using a spreadsheet.
2. Adopting local limits for SIUs and permitted non-SIUs.
3. Incorporating limits into the legal authority and permits.
4. Implementing permit specific local limits.

Registration information is available at: www.CWACS.com/training.htm If you purchase a copy of the CWACS Local Limits Software prior to May 14, 2010, registration is ½ price.

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.](#)

Up-to-Date Information not in Newsletters

I am posting information on my website (in between newsletters). Go to www.CWACS.com/ and look for this:  **New Information (thanks to everyone who provided these).**

Currently Information and Links out there:

- ✓ EPA Webcast: Management of Unused Pharmaceuticals & the Universal Waste Rule"
- ✓ An inventory of nanotechnology consumer products current on the market.
- ✓ EPA Lake Fish Tissue Study
- ✓ Court Ruling: POTW fails to control a pollutant and that pollutant ex-filtrates from sewer lines resulting in groundwater cleanup. September 2009.

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](#).

EPA Publishes New Effluent Guideline

Note: No Categorical Standards, but the development document and regulations pay provide useful information if you have these type of businesses discharging to your POTW.

Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category 40 CFR Part 450. Final Rule

Federal Register: December 1, 2009: Volume 74, Number 229. Page 62995-63058

SUMMARY: The Environmental Protection Agency is publishing final regulations establishing Clean Water Act (CWA) technology-based Effluent Limitations Guidelines and New Source Performance Standards for the Construction and Development (C&D) point source category. EPA expects compliance with this regulation to reduce the amount of sediment and other pollutants discharged from construction and development sites by approximately 4 billion pounds per year.

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

Curt McCormick
CWA Consulting Services, LLC

www.CWACS.com
Curt@CWACS.com

© 2009 CWACS. All rights reserved.
I encourage sharing *Inside Pretreatment* in whole or in part if copyright and attribution are always included.