



Inside Pretreatment Newsletter

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Please forward this Newsletter to Other POTWs. Subscribe at www.CWACS.com
Over 850 subscribers and climbing!

Local Limits Software now Available

CWACS has now released its Local Limits Software for purchase by local governments. The software allows POTW to save its local limits calculations for future reference and to meet recordkeeping requirements, includes the flexibility to easily allow local limits to be developed for Significant Industrial User (SIUs) only, SIUs and Permitted Non-SIUs, or include other sectors (e.g. trucked and hauled waste sector, commercial sector) and provides the POTW with the tools to organize and evaluate input data. [Download a brochure here.](#)

There are several free programs out there. You get what you pay for (as a note, always check the spreadsheets that you download – two that I have seen have minor errors in one of their formulas and remain uncorrected as of the date of this newsletter).

Local Limits Training

CWACS is looking for other locations to hold its Local Limits Training. If you are a POTW that can host this training and we can reasonable attract 20-25 attendees, please contact Curt at CWACS.

There are two versions of the training: A 2 day course that focuses on the legal and technical considerations for local limit revisions and a 2.5 - 3 day training course that includes more discussion of pretreatment in general and multi-POTW issues.

As a note: I cannot provide local limits training in a one-day course. I tried to design a one-day training course. The objective of my training is to assure that the attendee walks out of the

training with the ability to do a local limits and legal authority revision. The level of detail necessary for a great training course requires at least 2 days. I do not want to waste your time and money.

When to Revise Local Limits

After giving some presentations at pretreatment conferences and my local limits training, I get more questions about “When is a POTW required to update local limits?” When does the state or EPA have the authority to require reevaluations? The regulatory authority is really contained in two primary citations for approved programs and one citation for non-approved programs:

CFR Citation	Description
40 CFR §122.44(j)(2)(ii)	Provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1), following permit issuance or reissuance.
40 CFR §403.5(c)(1)	Each POTW shall continue to develop local limits as necessary and effectively enforce these limits.
40 CFR §403.5(c)(2)	All other POTWs shall develop and enforce local limits where Interference or Pass Through has been seen. <i>This is specifically applied to non-approved pretreatment programs.</i>

When to Set/Revise Local Limits

Process changes and/or expansion of the POTW (State or EPA will usually require a re-evaluation of your local limits).

Annual re-evaluation on Pretreatment Annual Reports indicates a problem (MAHL exceeded consistently).

NPDES regulations (EPA and state) require the POTW to reassess local limits during the POTW NPDES permit application process.

Violations of NPDES permit effluent limits or WET (after Toxicity Identification Evaluation or TIE) identifies a specific non-domestic contribution of the pollutant.

When loading at headworks becomes significant. Many states set a POTW redesign trigger when a conventional pollutant loading reaches 85% of the design. EPA also provides guidance on what is a pollutant of concern based upon loading.

Water Quality Standards, sludge standards, or other environmental standards change. This is where the POTW has to be diligent in revising local limits.

POTW flow has increased significantly. If the POTW's influent flow or pollutant loading has exceeded that used in the local limits calculations (generally above the safety factor value), then a re-evaluation would be required (MAHL has changed).

Changes at SIUs (increase or significant decrease in flows/loadings). When the total SIU flow exceeds that used in the flow model for local limits, revision is required (MAIL is being exceeded if POTW adopted concentration-based limits).

There are probably other triggers, but these are the ones that are the most common and based upon regulatory requirement and due diligence.

I have incorporated audio of a court trial where a POTW's local limit for a pollutant is being challenged (along with permits issued to the industrial user). The overall lesson from this trial is where a Standard has changed (e.g. state water quality standard, sludge disposal standard, etc.), the POTW has a responsibility to update its local limits (due diligence). If you have the documentation for your existing local limits, compare the water quality standards (and NPDES permit limits) and sludge standards that apply to your POTW with the assumptions in your local limit calculations. Are any different? If you cannot find your records.....

Updates

Methylmercury Water Quality Criteria and Implementation Document: Still draft as of the date of this newsletter.

Michigan Amalgam Separator Law: EPA is silent on this. A special newsletter update will be provided before the end of October.

EPA-NACWA-ADA MOU: EPA and other interested parties are still trying to learn if the ADA as complied with its information submittal requirements in the MOU.

Legal Authority Tip

Many people contact me about their legal authorities and some of EPA's model ordinance language. I always tell everyone that the model legal authority has errors and the POTW should read each paragraph before using. When making significant changes to a POTW legal authority (e.g. incorporate Streamlining regulatory changes), the POTW should take that opportunity to review its entire legal authority. As an example only, the POTW may consider a change to the right of entry language that may look or include the following:

“The City shall inspect the facilities of any industrial user to ascertain whether the Pretreatment Standards and Requirements of this Chapter are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the City, or its representatives, ~~upon~~ ~~showing proper identification,~~ ready access at all ~~reasonable~~ times to all parts of the premises for

the purposes of inspection, sampling, records examination and copying, or in the performance of any of their duties. Sampling may occur at any time and without notice.”

I suggest striking “showing proper identification” and “reasonable” and adding the last sentence. My recommendation is based upon the POTW may want to do surreptitious sampling without showing credentials and not having to defend the term “reasonable”. Never hurts to include a statement that references your easement entry authority (usually found in the General Sewer Use ordinance).

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](#).

Drinking Water Candidate List 3 – Final

Federal Register / Vol. 74, No. 194 / Thursday, October 8, 2009 / Notices

From the Notice (see full text): The Environmental Protection Agency published the third Contaminant Candidate List (CCL 3) since the Safe Drinking Water Act (SDWA) amendments of 1996. The CCL 3 is a list of contaminants that are currently not subject to any proposed or promulgated National primary drinking water regulations, that are known or anticipated to occur in public water systems, and which may require regulation under SDWA. Today’s final CCL 3 includes 104 chemicals or chemical groups and 12 microbiological contaminants.

EPA is required to publish a list of contaminants (1) that are currently unregulated, (2) that are known or anticipated to occur in public water systems, and (3) which may require regulations under the Safe Drinking Water Act (SDWA).

EPA to determine whether to regulate at least five contaminants from the CCL every five years. SDWA specifies that EPA shall regulate a contaminant if the Administrator determines that:

- The contaminant may have an adverse effect on the health of persons;
- The contaminant is known to occur, or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and
- In the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

EPA interprets these criteria as more rigorous than what is used to place contaminants on the CCL. If EPA makes a determination that a national primary drinking water regulation is needed, then the Agency has 24 months to publish a proposed Maximum Contaminant Level Goal and a proposed National Primary Drinking Water Rule and 18 months to publish final standards. EPA has authority to require all large and a subset of small systems to monitor for up to 30

unregulated contaminants every five years under the Unregulated Contaminant Monitoring Regulation.

The Agency will continue to gather information and evaluate contaminants on the CCL 3 to make a regulatory determination for at least five contaminants by 2013.

FDA Adds to List of Drugs to Dump Down the Sink for Disposal

Who do you think will win in a battle over the idea of keeping pharmaceuticals out of the sanitary sewer: EPA or DEA/FDA? Not even close! ‘

On October 14, 2009, FDA doubled the list of drugs (26) that must be dumped down the drain if disposal is needed.

<http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm186598.htm>

From the FDA Fact Sheet:

“Does flushing the medicines on the list down the toilet or sink drain pose a risk to human health and the environment?”

We are aware of recent reports that have noted trace amounts of medicines in the water system. The majority of medicines found in the water system are a result of the body’s natural routes of drug elimination (in urine or feces). Scientists, to date, have found no evidence of harmful effects to human health from medicines in the environment.

Disposal of these select, few medicines by flushing contributes only a small fraction of the total amount medicine found in the water. FDA believes that any potential risk to people and the environment from flushing this small, select list of medicines is outweighed by the real possibility of life-threatening risks from accidental ingestion of these medicines.”

EPA Research Strategy for Nanomaterials

The document can be found at www.epa.gov/nanoscience The document is: EPA 620/K-09/011. June 2009.

This Strategy is one of the first documents produced by EPA that establishes how the Agency approaches research and recommendations on safety. This is an area of emerging contaminants to watch.

Question of the Day

Is EPA HQ disinvesting in the pretreatment program at a National level? Criteria to evaluate this question:

1. Will EPA HQ eliminate additional EPA regional reporting requirements?
2. Will contract dollars that the regions receive for program support decrease?
3. Will EPA cancel its EPA-States National meeting?
4. Will more and more EPA HQ communications with regional coordinators deal with issues outside of, or on the periphery, of pretreatment?
5. Will Regional Coordinators be assigned to take on more and more “other than pretreatment” job duties?
6. Will EPA be slow to react to pretreatment issues?
7. Will there be a decrease in EPA pretreatment guidance at the National and regional level?

Local Limits Tip - Surcharging and Local Limits

If you surcharge for excess strength waste (e.g. wastewater >300 mg/L BOD₅) you need to review your legal authority and permits or other control documents. If the POTW does not establish an upper limit where surcharging is no longer allowed, this may be a pay-to-pollute situation and cause enforceability problems. If a permit does not contain an upper limit, the discharger will probably successfully argue that they believed they had no limits on discharge. Even where Interference or Pass Through may have occurred, and you argue that the general and specific prohibitions in the permit should have been complied with, a judge may find that since the permit was conflicting or confusing deference goes to the industrial user. Also, if there is no upper limit, the POTW may be seen as allocating infinite loading to the industrial user.

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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