



# Inside Pretreatment Newsletter

May 6, 2009

In this Issue: Request for POTW Involvement

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Hi everyone,

I will be sending out a survey for training interests soon. The local limits training has gotten very positive feedback from attendees. I will be looking for other locations and interest in this training. I am also developing more courses (Inspecting Industrial Users, POTW Legal Authority, Enforcement, and Responding to Unusual Pollutant Discharges).

**The next newsletter will focus on: IU Permitting and Permit Quality (Federal/state requirements versus POTW requirements).**

Today, I am asking for your help.

## **EPA Takes Notice of the Michigan Bill to Limit Local Pretreatment Program Authority**

Much of the last newsletter dealt with the Michigan dental amalgam law that would limit a POTW's ability to implement and enforce its pretreatment program for mercury. EPA refused to intervene with the State before the bill became effective. Since my newsletter, EPA Region 5 has contacted me and indicated that they are going to review the legislation.

As I had indicated in my last newsletter, this is the most direct threat to all POTW pretreatment programs legal authority that I have observed in 21 years of working in pretreatment. What EPA does here (or does not do) will determine if this approach will be incorporated through-out the country to limit the reach of the pretreatment program. I would predict that if EPA allows this Michigan law to be implemented or the State to maintain pretreatment delegation, other industrial groups will seek a similar approach.

EPA is well aware that legally, the Michigan law puts the Agency in a bind. There are specific NPDES regulations that require the State submit changes to its CWA pretreatment program to EPA for approval. Part of the process requires that the EPA public notice changes that have significant public interest. In this case, EPA the Michigan bill would directly conflict with the pretreatment regulations (40 CFR Part 403). They have to take action. I do not believe that the Agency attorneys or OGC will make a finding that the Michigan law or the NPDES modifications can even be public noticed because they are clearly inconsistent with the Federal regulations. The only real option for the Agency is to withdraw Pretreatment Program delegation from the State (unless they want to tell the State to rescind the bill which is unlikely and not timely). EPA hates this, but there are few options because the State Legislature made the Michigan Law effective immediately upon signature

by the Governor (Jan 2009).

I understand that many of you are busy. However, please consider submitting a simple request for response to EPA to this issue. I am not asking you to take a political stand on this issue. I am only asking that you let the Agency know that you are interested and want to be kept fully informed.

You could take the last newsletter and attach it to an email or simply include something similar to:

***“I would like to take this opportunity to request that I be fully informed about EPA Region 5 and EPA Headquarters actions as they relate to the review of the Michigan Amalgam Separator Law (House Bill 6307) that was effective January 13, 2009.***

***Please include me on all mailing lists (including email lists) regarding this issue. I understand that there may be significant issues related to limiting the legal authority of pretreatment programs when it comes to regulating dental discharges. If true, this could set a precedent for other states and other industrial user special interest groups and adversely impact local government authority to protect its wastewater collection and treatment, protect the receiving waters, and limit the ability to reduce mercury in sludge prior to disposal.”***

It is really important for the POTW pretreatment programs to be heard. Even the smallest POTW has a significant voice in this. If EPA perceives that there is a lack of interest, it will allow laws like this to be adopted throughout the country because it is these special interest groups that make the most noise and get the most attention. Every pretreatment organization should also make their voices heard on this issue.

*Full Disclosure: I have no financial interests related to this issue. I am also just one voice. My single voice did get a response from EPA Region 5, even though it was “we are studying the issue”. My interest in this is solely because I believe that any action taken by a state of EPA to limit pretreatment program legal authority is bad.*

These are the EPA folks that I would send any comments to (in a single email). This is updated since my last newsletter.

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Subcommittee on Domestic Policy: <http://oversight.house.gov/contact/>  
Just cut and paste your comments.

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

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