

Government Relations Team Comments On Pretreatment Program Streamlining

The following comments on EPA's proposed modifications to the General Pretreatment Regulations (64 FR 39564) were submitted in October on behalf of the AESF.* The AESF represents more than 5,000 members involved in metal finishing operations (plating, coating, anodizing, etc.) in the United States. The vast majority of metal finishers in the U.S. are small businesses that discharge their wastewater to Publicly Owned Treatment Works (POTW). Therefore, as indirect dischargers, we are very pleased to comment on these proposed changes to the pretreatment regulations that could have a direct and largely positive impact on metal finishing.

The metal finishers would like to compliment EPA for proposing such logical changes to the pretreatment program. We believe that the program has a proven record that allows the introduction of more flexibility. The flexibility and changes proposed will create stronger relationships between the POTWs and industrial users by encouraging cooperative efforts in permit development, reporting, sampling and record keeping. We believe these are important improvements in the pretreatment program. We also encourage EPA to study and propose additional opportunities for building further flexibility that enables industrial users to make common-sense decisions based upon their individual facilities and operations. Many of the changes in this proposed rule give flexibility only to the POTW and could be expanded to industrial users as well. Below please find our comments on the specific aspects of the proposed rule.

A. Specific Prohibition Regarding pH

EPA is proposing that POTWs could accept acidic wastewater (having a pH

< 5) from industrial users that continuously monitor their discharges, if the discharges are of short duration and the POTWs can demonstrate that this will not damage their collection system. The metal finishers agree with this proposed change, but suggest the following change: For POTWs that conduct the pH technical evaluation and determine that a lower pH requirement does not have the potential to cause corrosive structural damage to the POTW, we encourage EPA to allow these POTWs to establish the lower pH as a local limit and not require dischargers to continuously monitor the pH of their effluent.

B. Equivalent Mass Limits

EPA is proposing that POTWs could set a mass limit in lieu of a concentration limit for categorical standards for regulated pollutants if the discharger demonstrates it uses best available technology economically achievable (BAT) or equivalent and practices water conservation. The metal finishers strongly support this change. As part of EPA's Common Sense Initiative, the Metal Finishing Industry developed the Metal Finishing Strategic Goals Program. One of the goals is a 50-percent reduction in water use by 2005. Currently, the effluent limits established under the metal finishing industrial user category are concentration-based, which creates a disincentive to meeting the water reduction goals. Therefore, we strongly encourage the Agency to give POTWs the flexibility to establish mass-based limits in lieu of concentration-based limits so that water reduction activities are not discouraged.

C. Equivalent Concentration Limits for Flow-based Standards

EPA is proposing that for those facilities subject to effluent guidelines that prescribe a mass limit based upon

flow, but have highly variable flow, Control Authorities could set a concentration-based limit for the regulated pollutants. While this situation does not pertain to the metal finishing industry *per se*, we do believe that there are situations where this makes sense and encourage EPA to make this change.

D. Oversight of Significant Industrial Users

EPA is proposing that *non-significant* categorical industrial users (CIUs) be exempted from the definition of significant industrial users (SIUs). *Non-significant* CIUs would be defined as facilities that never discharge concentrated wastes and discharge less than 100 gallons per day of process wastewater, or are subject only to certification requirements after having met baseline monitoring report requirements. We support the concept of a definitional change; however, we believe that 100 gallons per day is too low a flow cut off to make a meaningful difference. The metal finishers support a more realistic flow cut off, such as 1000 gallons per day, which would create an obtainable incentive for flow reduction.

E. Categorical Industrial Users' Monitoring

EPA is proposing that a *non-significant* CIU be exempt from certain inspection and sampling requirements, but would have to annually certify that it was in compliance with discharge limitations and low flow rates. We also agree with these proposed changes.

F. Slug Control Plans

EPA is proposing to give Control Authorities flexibility to set their own schedules for reviewing the need for a

Editor's Note: These same comments were also sent on behalf of the NAMF and the MFSA, under separate cover.

slug control plan as part of their oversight and inspection of industrial users rather than being tied to the current mandatory two-year review cycle. We agree with this change to allow the POTW to determine when review is needed of the slug control plans; however, we strongly urge EPA to allow one document to serve all the spill planning requirements under the Clean Water Act, the Resource Conservation and Recovery Act, and other Acts. This eliminates unnecessary paperwork burdens on small businesses.

We also support expanding the definition of "slug discharge" to clarify that it is a non-routine discharge. This clarification will make it clear that non-routine discharges are different than discharges from companies that perform varying operations throughout the year.

G. Sampling for Pollutants Not Present

EPA is proposing to allow Control Authorities to waive sampling for pollutants that have been determined to not be present in concentrations greater than ambient background levels. We agree that these sampling requirements should be waived. However, we believe that the authority to make these determinations should be given directly to the dischargers. EPA should also allow the determination to be made based upon past sampling data, process chemistry, mass balances, or other credible means.

EPA is also proposing that industrial users would have to periodically certify that the pollutant(s) are present at or below background levels, only. We agree with this change, but believe that a variety of methods for making the periodic certifications should be available to the industrial users, including process chemistry, mass balances, sampling or other credible means.

H. Use of Grab & Composite Samples

EPA is proposing to give POTWs and industrial users additional flexibility to use grab or manually composited samples for certain parameters that are unaffected by the compositing process. Control Authorities would have additional latitude regarding the number of samples required for

certain monitoring reports and whether to allow time-proportional sampling in lieu of flow-proportional sampling procedures. We support these changes and encourage EPA to give more flexibility to industrial users to determine what is appropriate for their facility.

I. Removal Credits

EPA is proposing that industrial users upstream of combined sewer overflow or sanitary sewer overflow points would be ineligible for removal credits unless the discharges are treated because of the possibility of untreated pollutants entering a river or

stream during a storm event. We agree that there could be problems when untreated wastewaters are discharged during a storm event. However, EPA should allow industrial users who do not discharge during a storm event to be eligible for removal credits.

The metal finishers also encourage EPA to establish all the part 503 sewage sludge standards that the Agency intends to develop instead of waiting until EPA is petitioned to develop a specific standard. Because these standards must be in place before a removal credit can be requested, the removal credits program cannot reach its full potential until all the standards are developed. Until all the standards are developed, a partnership between the POTW and industrial users that efficiently uses the resources of both cannot be achieved.

J. Electronic Filing & Storage of Reports

To reduce the paperwork burden, EPA is currently evaluating options for electronic reporting and storage of records and EPA will publish a separate, proposed rulemaking to allow electronic reporting in the near future. We strongly encourage EPA to move forward on proposing these

options for electronic reporting and we encourage EPA to develop electronic reporting systems that guide users through the reporting process and prevent reporting errors by offering options via pop-up menus and not accepting inappropriate or incorrect information. We will gladly work with EPA to develop a reporting system that is specifically geared towards small businesses.

K. General Permits

EPA is proposing that general permits could be used to regulate significant industrial users, if these facilities have the same or substantially similar type of industrial processes, discharge the same type of wastes and are covered by the same concentration-based standards or best management practices. We believe that metal finishing operations offer an excellent opportunity for a general permit due to the similarity of the type of industrial process and discharges; therefore we encourage EPA to allow POTWs to issue general permits. General permits would save resources for our industry by reducing the burden of getting individual permits. We believe that a certified notice or even an e-mail message should be sufficient notification for coverage under a general permit.

We also encourage EPA to develop national general permits for classes of dischargers with substantially similar type of industrial processes, discharge the same type of wastes and are covered by the same concentration-based standards or best management practices.

L. Best Management Practices (BMPs)

EPA is proposing that best management practices developed by POTWs could serve as local limits and be enforceable as local permit requirements. We agree with this change, but also believe that industrial users should have the ability to develop facility-specific BMPs that could also be used as local permit requirements.

M. Modifications of Significant Noncompliance Criteria

EPA is proposing that Significant Noncompliance Criteria (SNC) would only be required to apply to significant industrial users. We believe that any violation that caused disruptions

to the operation of the POTW should be enforced, regardless of whether the violation was caused by a significant or non-significant industrial user. Therefore, we do not agree with this proposed change.

SNC criteria would be changed to address any violations of Pretreatment Standards, or requirements rather than just violations of daily maximum or longer-term average limits. We do not agree with this expansion of the SNC. We believe that SNC should only apply to meaningful violations of discharge permit limitations. Meaningful violations would be those that caused disruptions at the POTW and should not include any violation of paperwork, recordkeeping, or reporting requirements.

The SNC list could be published in any paper of general circulation that provides meaningful public notice. The metal finishers believe that any industrial user that causes a disruption to the operation of the POTW should be considered as SNC and the public should be made aware of this disruption via newspaper notice, radio announcement, etc. We do not believe that violations of paperwork, recordkeeping, or reporting requirements should ever be considered SNC.

Lastly, we would like to compliment the staff in EPA's pretreatment program that prepared the preamble to this rulemaking. We found the presentation logical and easy to read. We hope that EPA uses this preamble as a model for all future proposals. Thank you for considering these comments and please contact me if you have any questions.

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Editor's Note: These comments were submitted in response to:
Pretreatment Program Streamlining
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Protection Agency
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