## Advice & Counsel



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## MP&M Fallout

Dear Advice & Counsel,

My company operates a captive metal finishing facility as part of a large aerospace manufacturing operation. Your recent article on the proposed MP&M regulations has quite a few of our managers popping TUMS® lately. They had planned to modernize a facility that was completed in 1993, and now they don't know which way to go. Just what are the effects if we do modernize? Those numbers you published are quite low!

## Signed, N.A. Tizzy

Dear N.A.,

I hope you have plenty of TUMS® remaining, because the picture I'm going to paint will not be pretty. Let's start with EPA's proposed regulations and Subpart A-General Metals (page 541 of the Federal Register, Vol. 66, No. 2, dated January 3, 2001). Unless your metal finishing facility discharges less than 1 million gallons per year of treated wastewater, your existing facility will be regulated under MP&M-General Metals category, once MP&M goes into effect. The tables I previously published were for job shops, not the General Metals category. Table 1 provides you with the existing and new source MP&M treatment standards for sewer discharges, which you will see are, in some cases, even more strict than for jobshops.

In summary, captive facilities (those that process more than 50 percent of the total square footage on parts they own) will be regulated under category A, "General Metals," while jobshops (more than 50 percent of the square footage they process is owned by others) will be regulated under category B, "Metal Finishing Job Shops."

## Table 1, General Metals v. Job Shop MP&M Limits

mg/L where applicable, format is X/Y, X = 1 day max, Y = 30 day avg.

Parameter	General Metals (Existing Sources)	Job Shops (Existing Sources)	General Metals & Job Shops (New Sources)
Cadmium	0.14/0.09	0.21/0.09	0.02/0.01
Chromium	0.25/0.14	1.3/0.55	0.17/0.07
Copper	0.55/0.28	1.3/0.57	0.44/0.16
Cyanide-T	0.21/0.13	0.21/0.13	0.21/0.13
Cyanide-A	0.14/0.07	0.14/0.07	0.14/0.07
Lead	0.04/0.03	0.12/0.09	0.04/0.03
Manganese	0.13/0.09	0.25/0.10	0.29/0.18
Molybdenum	0.79/0.49	0.79/0.49	0.79/0.49
Nickel	0.50/0.31	1.5/0.64	1.9/0.75
Silver	0.22/0.09	0.15/0.06	0.05/0.03
Sulfide	31/13	31/13	31/13
Tin	1.4/0.67	1.8/1.4	0.03/0.03
Zinc	0.38/0.22	0.35/0.17	0.08/0.06
TOC	87/50	87/50	87/50
TOP	9.0/4.3	9.0/4.3	9.0/4.3

Now for some really confusing language in proposed section 438.17, pretreatment standards for new sources, courtesy of EPA (page 542 of the FR):

"Any new source subject to the provisions of this section and currently subject to the provisions of 40CFR part 433.17 that commenced discharging after (date 10 years prior to the date that is 60 days after publication date of the final rule) and before (date 10 years prior to the date that is 60 days after publication date of the final rule) must continue to achieve the standards specified in 40CFR 433.17 for 10 years beginning on the date the source commenced discharge or amortization of the facility, whichever comes first, after which the source must meet the standards specified in section 438.15."

After you have read the above paragraph several times and have finally succeeded in uncrossing your eyes, it translates as follows:

Assume EPA finalizes the MP&M regulation on December 28, 2002. By adding 60 days, we arrive at February 28, 2003 (assuming EPA means 60 days = 2 months). Now you go back 10 years to February 26, 1993. If you built your facility after that date, the above complex language applies to your facility, and here is the trouble you are in:

If you built your facility and began discharging on March 1, 1993, EPA will allow you to continue to discharge and be regulated under the current regulations (40CFR part 433.17) for 10 years. That brings you out to March 1, 2003. After that date, EPA proposes that you be required to meet MP&M existing source standards (part 438.15). The major

Table 2			
Facility Start-up	MP&M Limits	MP&M Compliance	r
Before 2/28/93	Existing Source MP&M	2/28/2006	r
2/28/93 to 2/28/03	Existing Source MP&M	Start-up Date + 10 years	l P
After 2/28/03	New Source MP&M	Upon Start-up	b
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problem, of course, is that those MP&M standards will be all of about one day old when you have to meet them!

The above scenario plays out in similar fashion for captive facilities and jobshops as well as printed wiring board facilities.

Our engineering department translated the above EPA proposal language for new facilities as shown in Table 2 (we have assumed that EPA publishes the final rule on December 28, 2002, and we have assumed that by 60 days, EPA means two calendar months).

You can quickly see a major disadvantage for any facility constructed and discharging between February 28, 1993 and any time in 1994, as those facilities have much less compliance time than any other dischargers. Further, a facility that begins discharging just before the regulations are finalized won't have to meet MP&M for 10 years. A shop that starts discharging in January, 2003 theoretically won't have to meet MP&M until January, 2003, while a shop discharging before 1993 must meet MP&M about eight years sooner, and a shop built in 1993 may have to meet the regulations the day after they are finalized.

We have brought this dichotomy to the attention of EPA in the hopes of resolving the dilemma, but as of this writing, no response has been received.

An interesting side-bar: If your new facility will electroplate nickel exclusively, note that the new source standard on **nickel** is almost four times higher for a new captive shop vs. an existing captive shop. This seemed so unreasonable to me that I originally thought this was a typographical error, but EPA has confirmed that they had limited data on new shops, and apparently newer facilities could not meet the same low standards as existing facilities, even though they are supposed to use more sophisticated technology!

In summary, build your shop and start discharging just before EPA

finalizes this regulation. If you are a nickel (only) plater, build a new shop only after the regulations are finalized. If you are an existing facility doing more than just nickel plating, don't ever build a new shop after the regulations are finalized. Don't replace or modernize more than 33-50 percent of your existing facility, after these regulations are finalized, because they may re-categorize you as a new source.

Be advised that I am making the above recommendations with tongue in cheek, because I am (almost) certain EPA will clear this mess up post haste. *PassF*