

Special Insert

The EPA issues Streamlining Rule amendments

On October 14, 2005 the U.S. Environmental Protection Agency (EPA) published the long-awaited Pretreatment Streamlining Final Rule in the Federal Register. The rule became effective on November 14, updating the National Pretreatment Program that has been in place for more than 30 years. These rule changes have been eagerly awaited because of the amended rule's potential to reduce the costs for both the regulated community and for regulating agencies such as King County.

The purpose of the new streamlining rule is to reduce the burden of and provide flexibility in technical and administrative requirements for industrial users (IUs) and publicly owned treatment works (POTWs) while continuing to protect the environment.

While anticipating several impacts to its program and permittees, KCIW is working to fully understand the impacts of the streamlining amendments. Early in 2006 the program hopes to start work on incorporating the changes into its pretreatment program. It will be proposing revisions to the King County Code and Public Rules, program procedures and fee structures. Initially KCIW will be gathering input about proposed new practices from its Industrial Waste Advisory Committee (IWAC) members, program permittees, and customers and environmental groups.

Once the changes are drafted the program will proceed, using the county's formal process that includes public hearings and a King County Council vote or department approval. The program can make some changes only requiring permit revisions or procedure changes right away. Other changes that require modifications to the King County Code and Public Rules will take KCIW up to a year to implement.

The Streamlining Rules amend eleven sections of the EPA's General Pretreatment Rules contained in 40 CFR 403 of the Federal Register. Those rules having the greatest impact on KCIW's permittees are discussed below. Since these rule changes are complicated, KCIW encourages readers to use the program as a resource. Readers can find contact information and other resources at the end of this article.

Much of the summary below was taken from a Regulatory Alert published by the National Association of Clean Water Agencies (NAWAC) and is being published with its permission.

Remove this insert for future reference

"Streamlining" Rule changes summary

Thanks to Jan Pickerl, (EPA)

Sampling for pollutants not present: Control Authorities (CAs) can grant sampling waivers where Categorical Industrial User (CIU) demonstrates that a regulated pollutant is neither present nor expected to be present.



King County

Wastewater Treatment Division
Industrial Waste Program

Discussion of Selected Rule Changes

Sampling for Pollutants Not Present

In the final Pretreatment Streamlining Rule, the EPA authorizes a Control Authority (in this case KCIW) to waive monitoring requirements for pollutants neither present nor expected to be present. The EPA will allow a CIU (a categorical industrial user; a business for which the EPA has published federal discharge limits) to forgo sampling for pollutants that do not appear in untreated effluent at levels greater than that of the intake water.

In King County most CIUs are not required to monitor routinely for pollutants not present; the county performs this monitoring during its biannual sampling. The permittees pay for this service via the monitoring fees assessed by KCIW. King County is working to determine if the amendment means that the monitoring done by KCIW for pollutants not present can be eliminated. If this is the case KCIW could reduce the monitoring fees.

The amendment contains several safeguards to ensure that any pollutant dropped from monitoring is *truly not present at levels exceeding the background of incoming water*, as versus merely not present at levels above the discharge limit. These requirements include:

- Sampling for the pollutants not present at least once every permit cycle.

- Requiring that the permittee complete a technical evaluation of all products, process and raw materials that shows the pollutant is not present or likely to be present, for each permit cycle.
- Sampling to show that *untreated effluent* does not have the pollutant *at levels above the background levels in incoming water*.
- Requiring that the permittee certify twice a year that the pollutants are not present. This is similar to KCIW's current practice of TTO (Total Toxic Organics) certification.

In the event that the pollutant appears at levels above the background levels in incoming water the permittee must immediately resume monitoring for the pollutant.

King County has the option of implementing these amendments by revising permits. Before proceeding KCIW needs to estimate the cost savings to its program vs. the costs of the required background sampling and technical evaluations. It also needs to assess the willingness of permittees to participate in the verification protocol.

Oversight of Categorical Industrial Users

The final rule establishes three categories of CIUs. The EPA will allow reduced King County monitoring and inspecting for some categorical industries. Currently any CIU, regardless of discharge volume must: have a waste discharge permit; be sampled twice a year per King County Ordinance and be inspected annually. The table below shows the new minimum federal requirements:

Minimum POTW Oversight Requirements

Definition	Control Mechanism Required?	Minimum CIU Reporting Requirements	Minimum POTW Inspection / Sampling Requirements
NSCIUs (Non-significant CIUs with less than 100 gallons per day (gpd))	No	Certification only (no reporting), one time per year	Not required
"Middle Tier" Significant CIU (with less than 5,000 gpd)	Yes	One time per year (if representative of discharge conditions during reporting period)	One time every other year
All other Significant CIUs	Yes	Two times per year (at a minimum)	One time per year

CIU Oversight

- 1) Establishes Non-Significant CIU (NSCIU) category (discharges < 100 gallons per day (gpd))
 - CIU reporting can be reduced to yearly compliance certification
 - CA oversight can be reduced to annual evaluation of the CIU's certification
- 2) Establishes "Middle Tier" CIU category (discharges don't exceed (a) the smaller of 5,000 gpd or 0.01 % of publicly owned treatment works (POTW) design dry weather hydraulic capacity; (b) 0.01 % of POTW design organic treatment capacity; and (c) 0.01 % of the Maximum Allowable Headworks Loading (MAHL))
 - CIU reporting can be reduced to once annually
 - CA oversight can be reduced to one inspection and sampling event every other year

This provision has the potential to reduce the need for King County monitoring from twice per year to once every other year at about 22 permittees that discharge at total of less than 5000 gallons categorical waste each day. King County may also reduce monitoring of other industrial users to once instead of twice each year, which could lower fees of those permittees receiving the reduced monitoring. These reductions would require changes in the King County Ordinance and the monitoring fee structure. Any reduction in monitoring would need to be weighed against protecting the environment by ensuring that higher risk industries are adequately monitored. King County can choose to do more than the minimum required monitoring.

Slug Control Plans

The new rules require that all Significant Industrial Users (SIUs) have a slug (spill) control plan and that KCIW incorporate the requirements of the plan in the company permit within the next year.

Currently King County is only required to evaluate the need for a slug control plans for metal finishers with greater than 10,000 gpd discharges. It has chosen to require spill plans at additional industries that could pose at threat to the wastewater treatment plants. The requirement for King County to review any slug control plan at least once every two years is gone.

The slug control requirements will be accomplished by modifying existing permits. Some companies that do not have spill plans will be required to write them.

Slug control plans

POTWs may determine how often they evaluate significant industrial users (SIUs) for the need for slug control plans or other requirements. Any requirements must be reflected in control mechanisms.

Use of Grab and Composite Samples

The new rules state that the flow-proportioned composite sampling requirements for 90 day reports (the report required when a company starts discharging or a new categorical limit is published) apply to all compliance samples. The rules allow manual laboratory compositing for unstable parameters such as cyanide and volatile organics. For unstable compounds a minimum of four grab samples for a composite won't be required if King County can produce data and document the reason why fewer samples are representative of the discharge.

Currently the majority of the composite compliance sampling performed by King County and permittees relies on time-interval, not flow-proportioned, composites. King County will need to work with permittees to show that time-interval composites are representative of the discharge - or set up monitoring sites where flow proportioning is possible.

To reduce analytical costs King County already composites grab samples of unstable compounds, so this amendment validates that process. Once the EPA's analytical methods (40 CFR Part 136) are revised the program should be able to composite petroleum FOG samples and further reduce costs for this analysis. The King County Local Limits will need to be changed to allow comparison of a composite FOG value to the limits. The limits currently require that the arithmetic average of a series of three grab samples be compared to the limit.

Grab and Composite Sampling

Clarifies and updates application of sampling requirements; Provides flexibility to CA in certain sampling protocols.

Significant Noncompliance (SNC) Criteria

SNC criteria define the level of non-compliance at which the EPA requires King County to increase enforcement actions and to publish notice of violations in newspapers. The EPA is making the following changes to SNC criteria:

- The SNC criteria will only apply to SIUs and to those IUs that have caused pass-through or interference resulting in a POTW using its emergency authority to halt a discharge, or that caused harm to the environment or POTW's operation. (In other words, companies that are not SIUs will not be published unless they have caused pass-through or harm to the environment. "Non-SIUs" include companies with KCIW Discharge Authorizations or Letters of Authorization. Since the early 1990's, when the SNC criteria was adopted by the EPA, KCIW has published the names of a number of non-SIUs that have had late reports.)
- SNC will only apply to late reports (such as baseline monitoring reports, 90-day compliance reports and periodic self-monitoring reports) that arrive at KCIW more than 45 days after the due date, instead of the current 30 days.
- Publication of the list of companies in SNC may now occur in any newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW instead of requiring publication in the daily newspaper with the highest circulation in the jurisdiction.

SNC – Publication

POTW can publish significant non-compliance (SNC) violations in any paper of general circulation.

SNC – Applicability

SNC criteria apply only to SIUs and to those industrial users (IUs) that have adversely affected pretreatment program.

Equivalent Concentration Limits for Flow-Based Standards

The Streamlining amendments allow King County to convert concentration-based categorical limits such as 413/433 to mass-based limits to accommodate water conservation measures. To qualify for mass-based limits a company must show that it has:

- Implemented water conservation measures that substantially reduced water use.
- The appropriate pretreatment and is not diluting waste.
- Recorded flow with a continuous *effluent* flow-monitoring device to demonstrate that flow and production levels don't fluctuate so much that mass limits are not appropriate.
- Determined actual daily average flow and baseline long-term average production rates.
- Continuously complied with effluent limits.

Equivalent Conc. Limits

CAs can use existing concentration-based standards instead of converting to flow-based mass limits for CIUs in Organic Chemicals Plastics and Synthetic Fibers (OCPSF), Petroleum Refining, Pesticide Chemicals.

KCIW will need to revise the King County Ordinance and Local Limits rules in order to allow companies to use mass-based limits. Doing so will support water conservation efforts in the region.

General Control Mechanisms (Permits) / Best Management Practices (BMPs) / Removal Credits / Miscellaneous Changes (signatory issues)

The final rule allows the use of general permits for SIUs. Previously, individual permits were required for each SIU. King County currently has a system for using general permits to non-SIUs but at this time it does not foresee applying this to existing categorical permittees.

The EPA finalized its proposed changes to clarify that BMPs developed by the POTW may serve as local limits and that the BMPs would be enforceable under 40 CFR 403.5(d) as Pretreatment Standards. King County currently enforces BMPs as well as numeric limits.

King County does not have a removal credit program.

The EPA broadened the definition of signatory authority, the position that can sign reports submitted to KCIW. The signatory authority is now defined as someone "having responsibility for the overall operation of the facility..."

General control mechanisms CAs may issue general control mechanisms to groups of SIUs that are substantially similar.

BMPs as local limits

Best management practices (BMPs) may be used in lieu of numeric local limits.

Miscellaneous Changes

Updates or corrects provisions re: to signatory requirements, net/gross calculations, requirement to report all monitoring data, and notification of changes.

Federal Register Citations for Pretreatment Streamlining Final Rule

Of the eleven major areas of the Streamlining Final Rule, the paragraphs and subparagraphs of the existing regulation affected by the amendments are in parentheses below:

Sampling for Pollutants Not Present (40 CFR 403.8(f)(2)(v) and 403.12(e))

General Control Mechanisms (40 CFR 403.8(f)(1)(iii))⁴

Best Management Practices (40 CFR 403.5, 403.8(f) and 403.12(b), (e), and (h))

Slug Control Plans (40 CFR 403.8(f)(1)(iii)(B)(6) and 403.8(f)(2)(vi))

Equivalent Concentration Limits for Flow-Based Standards (40 CFR 403.6(c)(6))

Use of Grab and Composite Samples (40 CFR 403.12(b), (d), (e), (g), and (h))

Significant Noncompliance Criteria (40 CFR 403.8(f)(2)(viii))

Removal Credits - Compensation for Overflows (40 CFR 403.7(h))

Miscellaneous Changes (40 CFR 403.12(g), (j), (l), and (m))

Equivalent Mass Limits for Concentration Limits (40 CFR 403.6(c)(5))

Oversight of Categorical Industrial Users (40 CFR 403.3(v), 403.8(f)(2)(v), and 403.12(e), (g), (i), (q))

Additional Resources:

Readers can find additional information in the discussion in the Federal Register at http://www.epa.gov/npdes/regulations/streamlining_fr_notice.pdf on the Internet.

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