

US EPA ARCHIVE DOCUMENT



# MSD

August 13, 1999

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Melinda Mallard Greene  
Region IV Project XL Lead  
United States Environmental Protection Agency  
Region 4  
Atlanta Federal Center  
61 Forsyth Street  
Atlanta GA 30303-8960

Re: Project XL

Dear Mrs. Mallard Greene:

This letter will provide responses to the comments on MSD's Project XL proposal which were provided with your letter of June 14, 1999. For ease of reference, EPA's comment is briefly summarized in bold, then followed by MSD response.

We look forward to working together in this project.

Sincerely,

Sharon Worley, P.E.  
Project Manager

SKW:skw

enclosure

cc: Pat Bradley, EPA  
Michelle Glenn, EPA  
Chad Carbone, EPA ✓  
Sandy Gruzesky, KDOW  
Mike Sweeney  
Marsha Jenkins  
Greg Ratliff

## General Comments

### **A. Include more detailed information in the Monitoring, Reporting, and Evaluation section.**

In order to address this question (and also questions D, F, and G) an overview of how the project will proceed is included here.

Similar to the Massachusetts Department of Environmental Protection XL project, some of the specific monitoring/baseline data of this proposal will be submitted to EPA after the Final Project Agreement has been negotiated and signed. The reason for this approach is that in the Federal Register notice, EPA requested proposals from POTWs as a group. In keeping with the goal of processing these XL proposals as a group, MSD plans to submit the Final Project Agreement (FPA) to coincide with the schedule developed by EPA for this group. This FPA will be negotiated prior to the time when MSD has accumulated all of the data needed to establish baselines and projections for the Superior Environmental Performance.

The following presents a brief outline of how the formalities of development of the approved XL project will proceed. (Please note that data collection and project development will proceed during this development of the XL formalities, as is shown on the attached schedule.):

- Step 1: MSD to respond to EPA questions/comments on the Project Proposal
- Step 2: MSD to prepare draft FPA (to include proposed regulatory revisions and proposed enforcement screening criteria for industrial users.)
- Step 3: MSD/EPA/stakeholders negotiate FPA  
MSD to develop Pretreatment Program performance measures
- Step 4: FPA signing ceremony
- Step 5: MSD to implement and assess performance measures  
MSD/stakeholders to make recommendations regarding appropriate program redevelopment
- Step 6: MSD to submit addenda for EPA approval. Addenda to include:
  - data for Superior Environmental Performance baselines and pollutant loading projections
  - Monitoring and Reporting and Evaluation specifics
  - Any final modifications to the enforcement screening criteria
- Step 7: EPA to approve addenda
- Step 8: MSD to begin implementation of program modifications

### **B. Consideration of project timing relative to Streamlining.**

Response: Since the proposed Streamlining Rule was about to be published, MSD waited for this information so that we could evaluate whether the modifications proposed in the Streamlining Rule would provide the regulatory flexibility requested by this proposal. Upon review, it was determined that even though the Streamlining Rule may accomplish some of our requested modifications, it will not provide all of the tools requested to accomplish full reinvention.

**C. Alternative regulatory relief discussions in the proposal should be more specific.**

In order to address this question (and also question E regarding SNC), the requested flexibility is more specifically described in the following. (It is anticipated that this draft will be further modified during the “FPA negotiation” period.)

**PROPOSED REGULATORY REVISIONS**

**Redefine “Significant Industrial User”**

Current Regulatory Definition – 403.3(t)

1. All Industrial users subject to Categorical Pretreatment Standards under 40 CFR
2. Any Industrial user that discharges an average of 25,000 gpd or more of process wastewater to the POTW
3. Any Industrial user that contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant.
4. Any Industrial user designated as such by the Control Authority on the basis that it has a reasonable potential to adversely affect the treatment plant operation or significantly violating pretreatment standards or requirement.

Proposed Regulatory Definition

1. Eliminate
2. Eliminate
3. Revised: “An Industrial user that contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant *flow; or, 5% or more of the mass loading of a pollutant of concern.*”
4. No Changes

Reasoning

1. Categorical status is not necessarily an indication that an IU has a significant impact on a treatment facility or the environment; therefore, we are proposing to eliminate this Categorical status as an SIU criteria.
2. The original intent of this requirement to include IUs with 25,000 gpd or more of process flow was a good beginning to target Significant IUs. However, to target IUs with the greatest potential to have a significant impact on a treatment plant, the requirements described in item 3 would be sufficient. This change is recommended because, for instance, an IU with high flow, low concentrations may have minimal impact but based on the current definition could require significant resources. However, an IU with low flow, high concentrations may have a significant impact but possibly only minimal resources. Therefore, limited resources should be allocated to address facilities with the greatest potential environmental impact.
3. A modification should be made to this criteria to include evaluating whether an IU contributes 5% or more of the mass loading to the treatment plant of a particular pollutant of concern. This recommendation may require more resources than the current regulation but would result in targeting IUs with the potential for the most significant impact.

4. No changes

**Redefine “Significant Noncompliance (SNC)”**

Current Regulatory Definition - 403.8(f)(2)(vii)

1. Comply with the public participation requirements of 40 CFR part 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in the largest daily newspaper published in the municipality in which the POTW is located, of industrial users which at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements.
2. Chronic violations: Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter.
3. Technical Review Criteria (TRC) violations. (TRC violations are those in which 33% or more of all of the measurements for each pollutant taken during a six-month period equal or exceed the product of the daily maximum multiplied by the applicable TRC. The TRC factor for BOD, TSS, fats, and oil and grease is 1.4. The TRC factor for all other pollutants (except pH) is 1.2.)
4. Any other violation of a pretreatment effluent limit, that the Control Authority determines has caused alone or in combination with other discharges, interference or pass through.
5. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW’s exercise of its emergency authority to halt or prevent such a discharge.
6. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in wastewater discharge permit or other order issued hereunder for starting construction, completing construction or attaining final compliance.
7. Failure to provide within 30 days after the due date required reports. (Such reports include baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules.)
8. Failure to accurately report non-compliance.
9. Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Proposed Regulatory Definition

1. revision: “Comply with the public participation requirements of 40 CFR part 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in the largest daily newspaper published in the municipality in which the POTW is located, of **Significant** industrial users which at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements.”
2. No Changes
3. Eliminate

4. No Changes
  5. No Changes
  6. No Changes
  7. Eliminate
  8. No Changes
- 
9. No Changes

#### Reasoning

1. SNC determinations should only be applicable to SIU's. The potential for program, facility, or environmental impact from users not designated as SIU's by the Control Authority is limited. By definition, a non-SIU has no reasonable potential to adversely affect the POTW.
2. No Changes
3. The TRC criteria was developed for use with NPDES permitting and does not have a technical basis for inclusion in the pretreatment program. NPDES analyses are done frequently while pretreatment analyses are done much less frequently; therefore, even just one analytical value can result in SNC. Additionally, the use of TRC results in an over complication of the SNC determination.
4. No Changes
5. No Changes
6. No Changes
7. Reports over 30 days late are not necessarily an indication of SNC. Late reports should be subject to enforcement responses (NOVs & fines) per the local enforcement response plan, and may lead to SNC, but the Control Authority should have flexibility to determine if reporting violations should be classified as SNC.
8. No Changes
9. No Changes

#### **Other Regulatory Change**

##### Current Regulatory Definition

1. Current regulations require Categorical IU's to monitor for all pollutants regulated unless specifically listed in the regulations.

##### Proposed Regulatory Definition

1. Modify the requirement for Categorical IUs to allow the flexibility to monitor and analyze for only those pollutants reasonably expected to be present. These IUs would be required to certify that the pollutant was not present based on raw materials and historical monitoring. Categorical IU's would be required to notify the POTW of any new or proposed discharges and their status re-evaluated.

#### Reasoning

1. Impractical use of resources to continually monitor for a pollutant clearly not present.

**D. Expand the SEP discussion.**

Response: This will be expanded in great detail prior to any program modifications, as discussed in the response to item A above.

**SNC Definition**

**E. Development of specific SNC definition.**

Response: See response to item C above.

**Enforcement Screening**

**F. Consider the potential need for enforcement screening and include screening criteria in FPA negotiations.**

Response: As was noted in the proposal, MSD will develop strict performance and compliance criteria to ensure that its partners in innovation are those firms and industries with solid environmental records. Screening criteria will be included in the FPA negotiations, and may be further refined by addenda based on performance measurement development. As with MSD's permitted users, the partners in innovation will be required to provide certification that no new process modifications which result in new or substantially increased discharges or a change in the nature of a discharge have occurred.

**Commitments**

**G. Attempt to specify pollutant loading reductions in Aspirations.**

Response: Projected pollutant loading reductions will be clearly articulated after sufficient data is available for this assessment. The loading reductions will be submitted for EPA approval as a part of the FPA addenda.

**Requested Flexibility**

**H. BMPs/Local Limits**

Response: Upon further consideration of this issue, BMPs will not be requested as a part of this project.

## K. STRATEGIC MANHOLE MONITORING PROGRAM

In 1980, Louisville experienced one of the worst sewer explosions in history. As a result, the Federal Emergency Management Administration (FEMA) ordered a Mitigation Plan be developed. The plan was the foundation of MSD's current Strategic Manhole Monitoring Program (SMMP). Through the current program, 69 manholes in the sewer collection system were selected for monitoring on a random basis for pH, color, temperature, conductivity, and explosiveness, water samples were not collected. Continuous monitoring for explosibility is now conducted at various pump stations throughout the system. MSD has discovered continuous monitoring at pump stations gives comprehensive results for explosibility without information from the 69 manholes in the system.

In order to be proactive in its approach to wastewater treatment, MSD reviewed the need for collection system sampling and monitoring. From this effort, a new program emerged in FY 1998. The new program is titled the Collection System Monitoring Program.

As a result of this new program, 17 sites have been selected for flow monitoring and data collection within 4 treatment plant areas. These four treatment plants, which include Morris Forman, Jeffersontown, West County, and Hite Creek, are the only ones within Jefferson County that have permitted industrial dischargers. During FY 1998, the sites were selected and the information was presented to the MSD Executive team. The E-team approved:

1. Installation of permanent flow monitors at the 17 approved sites.
2. Flow monitors to be placed on the MSD telemetry system.
3. Periodic sampling at the 17 approved sites.

Sampling is tentatively scheduled to be conducted quarterly. The flow and mass loading data will be used for many purposes, including system trend analysis.

In FY 00, it is projected that the following flowmeters will be purchased and/or installed:

- Four in the Jeffersontown system;
- Two in the West county collection system;
- Eight in the Morris Forman collection system.