**Protecting Our Water Environment**

**Metropolitan Water Reclamation District of Greater Chicago**

INDUSTRIAL WASTE ENFORCEMENT / PRETREATMENT SECTION

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Elaine B.
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June 8, 1999

OWM RECEIVED 6/15 #1

Mr. Michael B. Cook
Office of Wastewater Management
MC4201
United States Environmental
Protection Agency
401 M. Street, S.W.
Washington, D.C. 20460

Dear Mr. Cook:

Subject: Submittal of Local Pilot Pretreatment Program Proposal Under Project XL

On June 23, 1998, the United States Environmental Protection Agency (USEPA) published in the *Federal Register* its solicitation of local pilot pretreatment program proposals under Project XL (63 FR 34170).

On September 14, 1998, the Metropolitan Water Reclamation District of Greater Chicago (District) submitted its preliminary pretreatment program reinvention proposal to the USEPA.

On March 8, 1999, Mr. David Ullrich, Acting Regional Administrator, USEPA Region 5, advised the District that its preliminary pilot pretreatment program proposal had been reviewed and found acceptable, and invited the District to submit a formal project proposal.

In response to Mr. Ullrich's invitation, the District is pleased to submit the enclosed "Submittal of Local Pilot Pretreatment Program Proposal to United States Environmental Protection Agency Under Project XL" (Proposal). Copies of this Proposal have also been transmitted to Mr. Matthew Gluckman, Regional Pretreatment Coordinator, USEPA Region 5, and Mr. Kenneth Rogers, Manager, Compliance Assurance Section, Division of Water Pollution Control, Illinois Environmental Protection Agency.

Subject: Submittal of Local Pilot Pretreatment Program Proposal Under Project XL

If you have any questions regarding the District's Proposal, please contact Mr. Richard C. Sustich, Industrial Waste Enforcement Supervisor, at (312) 751-3050.

Very truly yours,

Cecil Lue-Hing, D.Sc., P.E.
Director
Research and Development

CLH:RCS:rcs
Enclosure
cc: Frank Lyons, Regional Administrator, USEPA Region 5
Matthew Gluckman
Kenneth Rogers
Richard Sustich

*Metropolitan Water Reclamation District of Greater Chicago*

# SUBMITTAL OF LOCAL PILOT PRETREATMENT PROGRAM PROPOSAL TO UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER PROJECT XL

By

Richard C. Sustich

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Research and Development Department

April 1999

**Executive Summary**

The Metropolitan Water Reclamation District of Greater Chicago (District) is a publicly owned treatment works (POTW) that treats wastewater from domestic, commercial and industrial sources located in the city of Chicago and 126 surrounding communities in Cook County, Illinois. The District has maintained an effective industrial waste Pretreatment Program for more than 30 years. Discharges from the District's water reclamation plants (WRP) are in full compliance with all applicable standards of their respective National Pollutant Elimination System (NPDES) permits and biosolids generated by District WRPs conform to the Exceptional Quality (EQ) criteria of the Standards for the Use and Disposal of Sewage Sludge (40 CFR 503). Through its Pretreatment Program, which it is required to operate under its NPDES permits, the District regulates process wastewater discharges from 535 Significant Industrial Users (SIU), including 362 Categorical Industrial Users (CIU), as of December 31, 1998. In 1996, the United States Environmental Protection Agency (USEPA) awarded the District the National Excellence Award for Pretreatment Programs in the Large Category (greater than 100 SIUs).

Based on the success of its traditional command-and-control Pretreatment Program, the District believes that it is in a position to develop and evaluate a pilot program incorporating many of the regulatory reinvention initiatives undertaken by the USEPA, the Association of Metropolitan Sewerage Agencies (AMSA), the Water Environment Federation (WEF) and the regulated industrial community.

A fundamental principle for the District's participation in Project XL, as well as the Common Sense Initiative-Strategic Goals Program (SGP), is that participation must not result in a net increase in Pretreatment Program costs, while there is substantial likelihood that participation could result in a long-term reduction in Pretreatment Program costs. Therefore, resources for any additional activities under both Project XL and SGP can only be provided through operational and regulatory flexibility in existing Pretreatment Program activities, with reallocation of freed resources.

Current environmental performance, including maintenance of Part 503 EQ sludge criteria, must be maintained. Program modifications or activities with the potential for degradation of environmental performance will not be considered under the District's Project XL proposal.

In this Project XL proposal, the District is proposing four interrelated activities that will demonstrate the application of performance-based oversight flexibility within its existing Pretreatment Program framework, whereby resources currently allocated to programmatic activities with low potential for environmental benefit will be reallocated to new Pretreatment Program activities with a greater potential for environmental benefit. These four activities are summarized briefly below:

1. Because of the uniquely large design capacities of its WRPs, the District is seeking regulatory flexibility with regard to its obligation under the General Pretreatment Regulations to regulate discharges from small CIUs into the District's WRPs. While oversight flexibility may not result in direct environmental benefit, such flexibility will allow the District to reallocate currently committed resources to other activities with greater potential for environmental benefit.

2. Approximately 276 of the 362 CIUs regulated under the District's Pretreatment Program are electroplating/metal finishing facilities. Under the United States Environmental Protection Agency's (EPA) Common Sense Initiative, EPA and the Metal Finishing Sector have established the national SGP to facilitate sector-wide environmental performance improvement, including promoting "beyond compliance" performance by sector leaders. The District has actively supported the objectives of the SGP and is currently implementing an SGP program in the greater Chicago area, in cooperation with EPA and the Illinois EPA.

   To further promote the objectives of the SGP, the District is proposing the creation of Strategic Performance Partnerships (Partnerships) with metal finishing facilities that fully achieve the individual facility goals outlined in the SGP. Under these Partnerships, the District would work cooperatively with demonstrated sector leaders to develop, test and implement alternative measurement systems for demonstrating environmental performance.

3. Like most POTWs across the nation, the District, through its Pretreatment Program, has achieved substantial environmental gains relative to the non-conventional pollutants and heavy metals which have been regulated under the NPDES and the District's local limits for many years. However, the same cannot be systematically said for other priority pollutants that may be of concern on a local scale. To address these pollutants, the District proposes the development of Toxic Reduction Action Plans (TRAPs) for inclusion in its Pretreatment Program.

   Under TRAPs, an interagency task force (District, EPA and Illinois EPA) would use existing environmental data (i.e., District emissions data and multi-agency ambient environmental monitoring data) to identify priority pollutants which are documented to be present in quantities or concentrations known to be a risk in the ambient environment but not currently subject to regulation, and rank these pollutants in order of importance to the task force. As resources would become available through the regulatory flexibility described earlier, the District could commit to specific reductions in the levels of these pollutants in WRP emissions through source control. Since these activities would be outside an existing regulatory structure, the District would be free to use informal action (i.e., educational outreach and pollution prevention) for these efforts. Further, failure to attain the anticipated pollutant reductions would not constitute regulatory noncompliance, but would be identified as an opportunity for future efforts by the interagency task force.

4. The District is proposing revision of its Pretreatment Program Annual Report format to include detailed information regarding environmental performance that is not currently required in the Annual Report. To offset the burden on the District to include this additional information in its Annual Report, the District is proposing that the detailed oversight information regarding SIUs be limited to only the population of SIUs that

were found in significant noncompliance at any time during the report year.

## I. OVERVIEW

This Final Project Agreement (FPA) is an outgrowth of the EPA's June 23, 1998 Federal Register Notice (Volume 63, Number 120) requesting proposal from POTWs for XL projects based on environmental performance measures for Pretreatment Programs. The intent of this effort is to investigate ways of increasing the effectiveness of the national Pretreatment Program and thus to obtain greater environmental benefit. EPA is willing to provide POTWs regulatory relief from programmatic requirements (e.g., specific monitoring frequencies, specific control mechanism issuance requirements, etc.), so that they can implement alternative programs that increase environmental benefits.

**Purpose of Project XL and the FPA**

### A. Purpose of Project XL

Project XL, which stands for "eXcellence and Leadership," is a national pilot program to text the extent to which regulatory flexibility, and other innovative environmental approaches, can be used to achieve superior environmental performance and reduced economic burden. Through site-specific agreements with project sponsors, EPA is able to gather data and project experience that will help the Agency redesign current approaches to public health and environmental protection. Under Project XL, sponsors—private facilities, multiple facilities, industry sectors, federal facilities, communities and states—can implement innovative strategies that produce superior environmental performance, provide flexibility, cost savings, paperwork reduction or other benefits to sponsors, and promote greater accountability to stakeholders.

### B. Purpose of this Final Project Agreement

This FPA is intended to be a joint statement of the plans and intentions of the District and the EPA (the parties) and to reflect the firm commitment of each party with regard to the project approved for implementation (the Project). This FPA is not, however, intended to create legal rights or obligations and is not an enforceable contract or regulatory action such as a permit or rule. Nevertheless, some provisions of this FPA will be implemented through rulemaking, consent orders and/or permitting, the terms and conditions of which will be legally enforce-

able. This FPA will articulate that the District intends to continue to attain environmental results that are measurably superior when compared to current and reasonably anticipated regulatory standards as contemplated by EPA's Project XL criteria. This FPA will identify the means to provide for environmental regulatory flexibility as requested by the District as an incentive for superior environmental results. All parties to this FPA will strive for a high level of cooperation, communication and coordination to assure successful, effective and efficient administration of the FPA and the Project.

**Current Program Description**

The District operates seven WRPS ranging in design capacity from 2.3 million gallons per day (MGD) to 1,200 MGD average daily flow. The flow and industrial loading data associated with the District's WRPs are summarized in Table 1.

NPDES permit requirements applicable to the District's WRPs are summarized in Table 2.

The District's procedures for ensuring proper application of pretreatment standards and the activities performed by the District relative to those procedures during 1997 are described in the following excerpt from the District's 1997 Annual Pretreatment Program Report:

> "On November 18, 1985, the United States Environmental Protection Agency (USEPA) granted its approval of the pretreatment program of the Metropolitan Water Reclamation District of Greater Chicago (District).
>
> Pursuant to the General Pretreatment Regulations (40 CFR 403) which contain the requirements for an approved pretreatment program, the District has identified 14 major program elements of its approved pretreatment program. A summary of the District's activities during 1997 with regard to each major program element is provided below.
>
> Program Element 1
>
> The District must deny or establish conditions for the discharge of pollutants from industrial users (IU) to District facilities.
>
> The District regulates the discharge of pollutants from IUs into its facilities through administra-

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 1

INDUSTRIAL CONTRIBUTIONS TO DISTRICT WATER RECLAMATION PLANTS DURING 1998

| Treatment Plant (NPDES Permit Number) | Design Avg. Flow (mgd) | Industrial Flow (%)[1] | Number of CIUs | Number of Noncategorical SIUs | Number of SIUs |
|---|---|---|---|---|---|
| Stickney (IL0028053) | 1,200 | 3.3 | 184 | 107 | 291 |
| Calumet (IL0028061) | 354 | 5.6 | 32 | 37 | 69 |
| North Side (IL0028088) | 333 | 1.6 | 78 | 21 | 99 |
| Kirie (IL0047741) | 52 | 4.0 | 54 | 5 | 59 |
| Egan (IL0036340) | 30 | 2.7 | 9 | 3 | 12 |
| Hanover Park (IL0036137) | 12 | 2.7 | 5 | 0 | 5 |
| Lemont (IL0028070) | 2.3 | 0.0 | 0 | 0 | 0 |
| Total | 1,983.3 | 3.4 | 362 | 173 | 535 |

[1]Industrial user flow contribution based on cleared 1997 flow data reported under the District's User Charge program.

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 2

National Pollutant Discharge Elimination System Permit Limits Applicable to District Water Reclamation Plants

| Parameter | Daily/Average Limits (mg/L except as noted) | | | | | | |
|---|---|---|---|---|---|---|---|
| | Stickney WRP | North Side WRP | Calumet WRP | Lemont WRP | Hanover Park WRP | Kirie WRP | Egan WRP |
| $CBOD_5$ | 20/10 | 24/12 | 48/24 | 30/20 | 20/10 | 20/4 | 20/10 |
| $BOD_5$ | - | - | - | - | - | - | - |
| Dissolved Oxygen | >6.0 | - | - | - | - | >6.0 | |
| Suspended Solids | 25/12 | 40/20 | 56/28 | 38/25 | 24/12 | 24/5 | 24/12 |
| Unionized Ammonia as N | 0.1 | - | - | - | 0.04 | 0.04 | - |
| Ammonia as N | 2.5/4.0[a] | 2.5/4.0[a] | [13a,b] | [c] | - | - | 1.5/4.0 |
| Fecal Coliform | - | - | - | - | 200[a,d] | 200[d] | 200[d] |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 2 (Continued)

National Pollutant Discharge Elimination System Permit Limits Applicable to District Water Reclamation Plants

| Parameter | Daily/Average Limits (mg/L except as noted) | | | | | | |
|---|---|---|---|---|---|---|---|
| | Stickney WRP | North Side WRP | Calumet WRP | Lemont WRP | Hanover Park WRP | Kirie WRP | Egan WRP |
| Residual Chlorine | - | - | - | - | NA/0.05[a] | NA/0.05[a] | NA/0.05[a] |
| PH | 6-9 | 6-9 | 6-9 | 6-9 | 6-9 | 6-9 | 6-9 |
| Antimony | - | - | - | - | - | - | - |
| Arsenic | - | - | - | - | - | - | - |
| Barium | - | [c] | - | - | - | - | - |
| Beryllium | - | - | - | - | - | - | - |
| Cadmium | - | - | - | - | - | - | - |
| Chromium (Trivalent) | - | - | - | - | - | - | - |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 2 (Continued)

National Pollutant Discharge Elimination System Permit Limits Applicable to District Water Reclamation Plants

| Parameter | Daily/Average Limits (mg/L except as noted) | | | | | | |
|---|---|---|---|---|---|---|---|
| | Stickney WRP | North Side WRP | Calumet WRP | Lemont WRP | Hanover Park WRP | Kirie WRP | Egan WRP |
| Chromium (Hexavalent) | - | - | - | c | NA/0.027 | NA/0.029 | - |
| Chromium (Tot.) | | 1.3/1.0 | 1.4/1.01 | c | - | - | - |
| Copper | - | 1/0.5 | 1/0.5 | c | 0.044 | 0.048 | - |
| Cyanide (Weak acid dissociable) | - | - | - | - | 0.02/0.01 | 0.02 | - |
| Cyanide (Tot.) | 0.12/0.10 | 0.1 | 0.11 | c | 0.01/.020 | 0.01 | - |
| Fluoride | - | - | - | c | 1.4 | - | - |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 2 (Continued)

National Pollutant Discharge Elimination System Permit Limits Applicable to District Water Reclamation Plants

| Parameter | Daily/Average Limits (mg/L except as noted) | | | | | | |
|---|---|---|---|---|---|---|---|
| | Stickney WRP | North Side WRP | Calumet WRP | Lemont WRP | Hanover Park WRP | Kirie WRP | Egan WRP |
| Iron (Tot.) | - | - | - | NA/2.0 | - | - | - |
| Iron (Dissolved) | - | - | - | - | - | - | - |
| Lead | 0.1 | 0.1 | 0.1 | c | - | - | - |
| Manganese | - | - | - | c | - | - | - |
| Mercury | - | - | - | NA/0.0005 | - | - | - |
| Nickel | - | - | - | c | - | - | - |
| FOG (Polar) | - | - | - | NA/15 | - | - | - |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 2 (Continued)

National Pollutant Discharge Elimination System Permit Limits Applicable to District Water Reclamation Plants

| Parameter | Daily/Average Limits (mg/L except as noted) | | | | | | |
|---|---|---|---|---|---|---|---|
| | Stickney WRP | North Side WRP | Calumet WRP | Lemont WRP | Hanover Park WRP | Kirie WRP | Egan WRP |
| FOG Non-polar) | - | - | - | NA/15 | - | - | - |
| Phenols | - | 0.3 | 0.3 | [c] | - | - | - |
| Selenium | - | - | - | - | - | - | - |
| Silver | - | - | - | - | - | - | - |
| Thallium | - | - | - | - | - | - | - |
| Zinc | - | 1.0 | 1.1/1.0 | NA/1.0 | - | - | - |

[a]Seasonal limits: May through October/November through April
[b]Must be reported only when stream limit is violated
[c]Must be reported but no effluent limits established
[d]Monthly geometric mean (May through October); no more than 10% of samples during this period may exceed 400 f.c. per 100 mL

tion of its Sewage and Waste Control Ordinance (Ordinance), adopted September 18, 1969 and as amended.

During 1997, the District continued to aggressively enforce the standards and requirements of its Ordinance. Under the provisions of Appendix D of the Ordinance, adopted on September 5, 1991, the District continued its program of issuing individual control mechanisms (Discharge Authorizations) to all significant IUs.

As of December 31, 1997, 527 of 543 (97.1%) significant IUs had been issued Discharge Authorizations. Of the 14 significant IUs without Discharge Authorizations, four have closed, two are appealing their Discharge Authorization renewal denials and eight are the subject of enforcement action for operating without a Discharge Authorization.

## Program Element 2

The District must require compliance by IUs with applicable USEPA and local pretreatment standards.

The District requires compliance with applicable USEPA and local pretreatment standards through administration of its Ordinance. Appendix B of the Ordinance contains provisions regarding compliance with local pretreatment standards applicable to all dischargers to the District's sanitary sewerage system while Appendix C of the Ordinance contains provisions regarding compliance with pretreatment standards for IUs subject to categorical pretreatment standards promulgated by the USEPA.

During April 1988, the USEPA and the Illinois Environmental Protection Agency (IEPA) conducted a Pretreatment Compliance Audit (PCA) of the District's pretreatment program. As a result of the PCA, the USEPA found that the District had allowed IUs who had submitted unacceptable Baseline Monitoring Reports (BMR) additional time to revise these BMRs or to submit additional information. The USEPA found that, during this extension period, the District did not require these IUs to comply with applicable categorical pretreatment standards.

During 1997, the District continued to enforce categorical pretreatment standards against all IUs subject to categorical pretreatment standards, regardless of the acceptability of an IU's BMR, and initiated enforcement action against all IUs found in violation of categorical pretreatment standards. The District also continued its program of issuing individual Discharge Authorizations to all significant IUs.

## Program Element 3

The District must control by permit, or some similar means, the contribution to District facilities from each IU to ensure compliance with applicable pretreatment standards.

During 1990, the District relied on its Ordinance as the regulatory mechanism to control the contribution from IUs, rather than the issuance of a permit or other mechanism specific to each IU.

On September 5, 1991, the Board adopted amendments to the Ordinance, including Appendix D governing the issuance of individual Discharge Authorizations to all significant IUs under the District's jurisdiction.

As of December 31, 1997, 527 of 543 (97.1%) significant IUs had been issued Discharge Authorizations. Of the 14 significant IUs without Discharge Authorizations, four have closed, two are appealing their Discharge Authorization renewal denials and eight are the subject of enforcement action for operating without a Discharge Authorization.

## Program Element 4

The District must require all IUs not in full compliance with applicable pretreatment standards to submit a compliance schedule detailing all steps necessary to achieve compliance as well as a schedule for completion of these steps.

During 1990, when an IU was found in violation of the Ordinance, a Notice of Violation was issued to the IU requiring attendance at a conciliation meeting. On some occasions, the IU was required to attend additional conciliation meetings until a claim of compli-

ance was made by the IU. Conciliation meetings were scheduled in a manner that allowed the IU sufficient time to complete and evaluate the various steps agreed to in the compliance schedule developed at the first meeting. Monthly progress reports were required during long-term conciliations.

In accordance with legislation signed into law on September 10, 1990, the Board, on December 5, 1990, adopted amendments to the Ordinance eliminating the issuance of Notices of Violation, and implementing the issuance of Cease and Desist Orders (Order) for all instances of significant noncompliance with the Ordinance. The Order requires the noncomplying IU to submit a formal compliance schedule to the District within 15 days of the issuance of the Order. Additionally, the Order limits the length of any compliance schedule entered into by an IU to not greater than 90 days. If an IU fails to submit a compliance schedule indicating that compliance will be attained within 90 days or if the IU fails to attain compliance within 90 days, the District may commence escalated enforcement action against the IU.

During 1997, the District continued to aggressively enforce applicable pretreatment standards through the issuance of Orders requiring formal compliance schedules, Show Cause proceedings and litigation.

On February 18, 1993, the Board approved a Resolution authorizing execution of an interagency agreement between the District and the Illinois Waste Management and Research Center (Center) for the Greater Chicago Pollution Prevention Program (GCP3).

Since 1993, the District has participated in the GCP3, a culmination of efforts by a multi-agency task force from the District, the USEPA Region 5, the IEPA, the Center, the Chicago Department of Environment and, more recently, the Cook County Department of Environmental Control, community groups and small business development centers.

The GCP3 has provided training, outreach and technical assistance for Chicago area businesses to promote and encourage pollution prevention for all media releases, targeting the facilities which most se-

riously impact the District or which are recommended by the agency partnerships. Under an interagency agreement between the District and the Center, a member of the Center's staff has occupied an office at the District since 1994 and the District has been active in referring IUs to the program for guidance in reducing waste generation as a means of achieving compliance. In December 1997, all Industrial Waste Division Pollution Control Officers and Environmental Engineers participated in a one-day pollution prevention workshop conducted by the Center. The training included hands-on group exercises demonstrating pollution prevention principles and methods. The District is continuing its recognition program for businesses which have achieved notable success in implementing pollution prevention measures within the District's jurisdiction. The second District Pollution Prevention Awards will be presented during July 1998 by the District's Board of Commissioners.

Industrial user participation in the GCP3 is summarized in Table 1.

## Program Element 5

The District must require IUs subject to categorical pretreatment standards to submit an initial BMR, and periodic self-monitoring reports to assure compliance with applicable pretreatment standards.

Previously, the District required IUs subject to categorical pretreatment standards to submit a BMR within 180 days of the promulgation date for the applicable categorical pretreatment standards, and to submit continued compliance reports twice annually. IUs failing to submit reports as required are issued a Cease and Desist Order (Order), and directed to submit the required report within 30 days. Failure to submit the required report results in escalated enforcement action against the IU.

Under the provisions of Appendix D of the Ordinance, adopted September 5, 1991, significant IUs, including IUs subject to categorical pretreatment standards, must obtain individual Discharge Authorizations from the District through submission of a Discharge Authorization Request, in lieu of the BMR.

TABLE 1
(Cited from 1997 Annual Pretreatment Program Report)

INDUSTRIAL USER PARTICIPATION IN THE GREATER CHICAGO POLLUTION PREVENTION PROGRAM[1]

| Industrial User Sector/Activity | Number of Assessments/ Site Visits | |
|---|---|---|
| | 1997 | Since Program Inception (1/1/93) |
| Electroplating/Metal finishing | 7 | 23 |
| Metal fabricating | 7 | 17 |
| Glass/Stone product manufacturing | 1 | 3 |
| Printed Circuit Board manufacturing | 2 | 3 |
| Printing | 1 | 23 |
| Food processing | 7 | 19 |
| Chemical manufacturing/processing | 2 | 7 |
| Automobile repair | 1 | 6 |
| School educational visits | 0 | 1 |
| Primary Metals | 2 | 2 |
| Other facilities (textiles, plastic fabricating, dry cleaning) | 3 | 11 |
| Number of individual sites visited | 33 | 95 |
| Total number of site visits[2] | 58 | 195 |

[1]Industrial user activity through December 31, 1997.
[2]Some sites may be visited more than once.

During 1997, the District continued to aggressively enforce all applicable reporting requirements against IUs. The District's enforcement actions with regard to IUs' failure to comply with pretreatment reporting requirements are summarized in Table 2.

TABLE 2
(Cited from 1997 Annual Pretreatment Program Report)

SUMMARY OF ENFORCEMENT ACTIONS TAKEN BY THE DISTRICT AGAINST INDUSTRIAL USERS FOR FAILURE TO COMPLY WITH APPLICABLE REPORTING REQUIREMENTS 1996 - 1997

| Type of Enforcement Action | 1996 | 1997 |
|---|---|---|
| Late Filing Fees Assessed | $64,300 | $49,700 |
| Cease and Desist Orders Issued | 115 | 72 |
| Recommendations for Show Cause Action | 0 | 0 |
| Recommendations for Legal Action | 0 | 0 |

## Program Element 6

The District must perform inspection and monitoring activities, independent of those conducted by IUs, which are sufficient to ensure that IUs are in compliance with applicable pretreatment standards.

Under its pretreatment program approved on November 18, 1985, the District, at a minimum, must inspect and sample all IUs subject to categorical pretreatment standards and other significant IUs (then defined as IUs having a flow greater than 200,000 gallons per day) at least annually, to verify compliance with applicable pretreatment standards. Inspections include observation of discharge points, process areas, pretreatment systems, generation of sludge and other process residues, maintenance of records, and any other items required by the Ordinance.

Pursuant to the amendments to the General Pretreatment Regulations which became effective on August 23, 1990, the District, on September 11, 1991, revised its definition of significant IU to include any IU which discharges greater than 25,000 gallons of process wastewater per day into the sanitary sewerage system.

During 1997, the District inspected all but two SIUs and sampled all but 16 SIUs having process discharges. Of the two SIUs not inspected, one was newly regulated during 1997 while the other was not inspected due to a data base error in the assignment of inspection work orders. The data base error has since been corrected and the facility has been scheduled for two inspections during 1998. Of the 16 SIUs not sampled during 1997, six were newly regulated during the second half of 1997, four did not discharge wastewater from their regulated processes during 1997, and six were not sampled due to data base errors in the assignment of sampling work orders. The data base errors have since been corrected and all six facilities have been scheduled for two sampling programs during 1998.

The District continued to use its comprehensive inspection checklist during inspections of IUs to ensure that information pertaining to chemical storage facilities, hazardous waste generation, spill control plans, IU self-monitoring techniques (when observed), and IU production rates was adequately obtained. During 1997, all newly appointed professional staff of the Industrial Waste Division (Engineers and Pollution Control Officers) attended and completed a training program in the performance of pretreatment facility inspections. This course was developed by California State University in Sacramento, in cooperation with the California Water Pollution Control Association, for the USEPA. All new professional personnel added to the Industrial Waste Division must attend and complete this training program in the performance of pretreatment facility inspections as a condition of attaining permanent employment status.

As of December 31, 1997, there were 371 IUs subject to categorical pretreatment standards, and 172 nonregulated significant IUs under the District's jurisdiction, who were subject to annual inspection and

sampling. Of the 371 IUs subject to categorical pretreatment standards, three do not discharge wastewater from regulated categorical processes into the sewerage system.

The District's inspection and sampling activities during 1997 with regard to IUs subject to categorical pretreatment standards, and significant IUs are summarized in Table 3.

In order to maintain the reduced copper loading to its Hanover Park Water Reclamation Plant (WRP) and Kirie WRP, the District maintained 21 dedicated automatic sampling units at IUs tributary to these WRPs which were identified as significant point sources of copper.

The District continued to take aggressive enforcement action against any of these IUs found in noncompliance with applicable discharge limitations.

In anticipation of the USEPA's promulgation of "Standards For the Use and Disposal of Sewage Sludge" (Standards) (40 CFR 503), the District, during 1992, undertook a major enforcement initiative against IUs discharging metals regulated under the Standards.

During June and July 1992, the District installed dedicated automatic sampling units at the two known cadmium electroplaters tributary to the District's Calumet WRP. Within six weeks, the cadmium concentration in sewage sludge generated by the Calumet WRP decreased from 71 mg/kg to 18.5 mg/kg. Based on the demonstrated deterrent effect of dedicated automatic sampling units, the District installed 46 additional dedicated automatic sampling units at IUs having demonstrated histories of discharging metals regulated under the Standards, or having the ability to discharge the regulated metals.

On December 8, 1992, the Board approved a plan and authorized funding for 43 additional personnel including 22 Pollution Control Officers and 20 Water Samplers, 125 additional automatic sampling units, 26 vehicles and other equipment and services to expand the Part 503 enforcement initiative to monitor those IUs identified as potentially significant sources of the metals regulated by the Standards.

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 3
(Cited from 1997 Annual Pretreatment Program Report)

SUMMARY OF DISTRICT INSPECTION AND SAMPLING ACTIVITIES WITH REGARD TO CATEGORICALLY REGULATED INDUSTRIAL USERS AND NONREGULATED SIGNIFICANT INDUSTRIAL USERS
1996 - 1997

| Inspection/Sampling Activity | Number of Actions During 1996 | Number of Actions During 1997 |
|---|---|---|
| IUs Having Process Discharge (Wet) Subject to Categorical Pretreatment Standards Inspected (368 in Category during 1997) | 395 | 368 |
| IUs Having Process Discharge (Wet) Subject to Categorical Pretreatment Standards Sampled (368 in Category during 1997) | 387 | 358 |
| IUs Lacking Process Discharge (Dry) But Subject to Categorical Pretreatment Standards Inspected (3 in category during 1997) | 11 | 3 |
| Nonregulated Significant IUs Inspected (172 in category during 1997) | 172 | 170 |
| Nonregulated Significant IUs Sampled (172 in category during 1997) | 170 | 166 |

During 1997, the District maintained 45 dedicated automatic sampling units at IUs under the Part 503 Monitoring Program. The success of the District's Part 503 Monitoring Program in reducing the discharge of metals of concern from categorically regulated industrial users is presented in Table 4.

## Program Element 7

The District must investigate and remedy instances of non-compliance by IUs.

When the District determines that an IU is in violation of the Ordinance, either by District inspection and sampling or by IU self-reporting, an Order is issued against the noncomplying IU. The IU is required to submit a written compliance schedule containing specific measures which will be taken to attain compliance and specific milestone dates by which such action will be taken.

In each case, on-site inspection and sampling are performed by the District to verify an IU's claim of compliance. If the IU is again found to be in noncompliance, escalated enforcement action (Show Cause or legal action) may be pursued.

During 1997, the District continued to aggressively take enforcement action against IUs found in violation of the Ordinance as a result of District inspection and sampling, and in response to IU self-reported violations. The District's enforcement activities during 1996 in response to instances of noncompliance with effluent limitations by significant IUs are summarized in Table 5.

## Program Element 8

The District must obtain legal remedies for noncompliance by IUs (including injunctive relief and civil and/or criminal penalties) sufficient to deter further instances of noncompliance by IUs.

Once an IU claims that compliance has been achieved with regard to an Order, the District verifies this claim by inspection and sampling. If the IU is found in noncompliance, the District may determine

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4
(Cited from 1997 Annual Pretreatment Program Report)

TRENDS IN ANNUAL DISCHARGES OF METALS OF CONCERN FROM CATEGORICALLY REGULATED INDUSTRIAL PROCESSES[1]
1995 - 1997

| Pollutant | Annual Discharge (pounds)[2] 1995 | 1996 | 1997[3] | Percent Change 1995-1997 |
|---|---|---|---|---|
| Cadmium | 832 | 763 | 429 | **-48.4** |
| Chromium | 22,547 | 16,280 | 20,100 | **-10.9** |
| Copper | 16,837 | 14,041 | 9,560 | **-43.2** |
| Nickel | 11,664 | 10,598 | 12,264 | **5.1** |
| Lead | 2,542 | 2,910 | 2,476 | **-2.6** |
| Zinc | 32,328 | 32,472 | 21,474 | **-33.6** |

[1]Metals of Concern are metals regulated under 40 CFR Part 503 Sewage Sludge Regulations for which industrial users are subject to effluent discharge limits under categorical pretreatment standards.

[2]Annual discharge loading from categorically regulated IUs was determined by multiplying IU-reported annual discharge volume from categorically regulated wastestreams by the average pollutant concentration based on all available District monitoring data.

[3]1997 discharge estimates based on 1996 IU-reported annual discharge volume data and District monitoring data available for 1997.

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 5
(Cited from 1997 Annual Pretreatment Program Report)

SUMMARY OF DISTRICT ENFORCEMENT ACTIVITIES IN RESPONSE TO INSTANCES OF NONCOMPLIANCE WITH EFFLUENT LIMITATIONS BY SIGNIFICANT INDUSTRIAL USERS 1996 - 1997

| Enforcement Action | Number of Actions During 1996 | Number of Actions During 1997 |
|---|---|---|
| Notice of Noncompliance for Local Limits | 160 | 145 |
| Notice of Noncompliance for Categorical Limits | 156 | 100 |
| Cease and Desist Order for Local Limits | 123 | 127 |
| Cease and Desist Order for Categorical Limits | 221 | 228 |
| Recommendation for Show Cause Action | 0 | 1 |
| Recommendation for Legal Action | 0 | 0 |

that Show Cause action is warranted. Show Cause proceedings involve hearings conducted by a Hearing Officer appointed by the Board of Commissioners (Board). At the conclusion of the hearings, the Hearing Officer makes a finding of fact and a recommendation to the Board for action regarding the noncomplying IU. The recommendation, upon adoption, becomes an Order of the Board (Board Order). An IU in significant noncompliance with a Board Order may be recommended for legal action in the Circuit Court of Cook County, to halt the condition of noncompliance either by mandamus or injunction.

Pursuant to Chapter 42, Section 326bb of the Illinois Revised Statutes, the District may seek a penalty of not less than $1,000.00 nor more than $10,000.00 per day for each day on which the IU remained in noncompliance with a Board Order, plus recovery of reasonable attorney's fees, court costs and other expenses of litigation, and costs for inspection, sampling, analysis and administration relating to the enforcement action, beginning with the issuance of the initial Order. For each day of violation prior to the issuance of the Board Order, the penalty may be reduced to not less than $100.00 per day of violation.

Pursuant to the authority granted to the District under Senate Bill 1683 and the Ordinance amendments adopted by the Board on January 28, 1993, the District commenced the inclusion of administrative penalties in Board Orders for violations occurring after January 28, 1993. For violations which occurred prior to the January 28, 1993 Ordinance amendments, the District continued its policy of seeking penalty provisions in agreed Board Orders, while requiring IUs to conduct continuous self-monitoring until full compliance has been achieved, and providing for penalties for noncompliance during the period prior to the Board Order compliance date, to further increase deterrence.

The District's activities during 1996 and 1997, regarding Show Cause and legal action for noncompliance by all IUs are summarized in Table 6.

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 6
(Cited from 1997 Annual Pretreatment Program Report)

SUMMARY OF SHOW CAUSE AND LEGAL ACTION ACTIVITIES TAKEN BY THE DISTRICT IN RESPONSE TO INDUSTRIAL USER NONCOMPLIANCE 1996 - 1997

| Enforcement Action | 1996 | 1997 |
|---|---|---|
| Number of IUs Subject to Show Cause Action | 36 | 19 |
| Number of Board Orders Issued | 6 | 5 |
| Penalties Paid by IUs in Response to Board Orders | $99,738 | $125,420 |
| Number of IUs Recommended for Legal Action | 1 | 0 |
| Penalties Paid by IUs in Response to Legal Action | $32,312 | $108,343 |

## Program Element 9

The District must identify and locate all IUs within its jurisdiction affected by pretreatment regulations and notify these IUs of the applicability of pretreatment regulations.

During 1997, the District continued its program of surveying IUs within its jurisdiction to identify those IUs subject to categorical pretreatment standards. A total of 45 surveys were mailed in 1997 to both new IUs and to those IUs whose survey records were more than five years old.

Also during 1997, the District continued its practice of soliciting lists of all commercial and industrial business licenses issued by the municipali-

ties within the District, as a means of identifying new IUs potentially subject to regulation.

In addition, the District also implemented a program to solicit lists from all potable water supply services within its jurisdiction of all customers who use in excess of 25,000 gallons of potable water per day, to identify potential significant IUs.

Program Element 10

The District must obtain effective control of industrial waste discharges which endanger public health, the environment, or the operation of the District's water reclamation plants.

When the District determines that a discharge from an IU poses imminent endangerment to the health and safety of the public, the IU is immediately notified of such determination and is required to immediately halt the discharge. If this conciliatory approach fails to halt the endangering discharge, the District seeks emergency injunctive relief in the Circuit Court of Cook County.

During 1997 the District did not have occasion to seek emergency action against any IUs for the control of discharges which pose a danger to public health, the environment or the operation of the District's water reclamation plants.

Program Element 11

The District must provide information to the public regarding IUs that are in significant noncompliance with applicable pretreatment standards, and other pretreatment requirements.

Included in the amendments to the Ordinance which were adopted by the Board on September 5, 1991 was Appendix E, which provides rules governing confidentiality and public access to information maintained by the District regarding IUs, and provides rules for the annual publication of significant violators in the newspaper.

A copy of the District's proposed list of significant violators, for the period from January 1,

1997 through December 31, 1997, is enclosed with this report. The list of significant violators is scheduled for publication in the Chicago Tribune during 1997, after the affected IUs have been allowed an opportunity to provide comments to the District regarding the appropriateness of publication.

A summary of the significant violator publication list for the years 1995, 1996 and 1997 is provided in Table 7.

TABLE 7
(Cited from 1997 Annual Pretreatment Program Report)

SUMMARY OF SIGNIFICANT VIOLATOR PUBLICATION LIST
1995 - 1997

| | 1995 | 1996 | 1997 |
|---|---|---|---|
| Number of Companies Subject to Publication | 227 | 208 | 56 |
| Violation Category | | | |
| Effluent Limitations | 91 | 66 | 30 |
| Reporting Requirements | 108 | 70 | 29 |
| Discharge Authorization Requirements | 0 | 0 | 0 |
| Monitoring Requirements | 0 | 0 | 0 |
| Pretreatment Facilities | 0 | 0 | 0 |
| Spill Containment Facilities | 1 | 0 | 0 |
| Right of Access | 1 | 1 | 0 |
| Dilution Prohibition | 3 | 1 | 1 |
| Total Violations Published | 363 | 276 | 60 |

Also included in Table 7 are the identities of those SIUs having exemplary compliance records for 1997. These SIUs were not the subject of any enforcement actions taken by the District with regard to significant noncompliance with applicable pretreatment standards or other requirements during 1997.

Pursuant to 40 CFR 403.14(b), the District also makes available, under Freedom of Information Act requests, all IU self-reported information detailing the nature of discharges from IUs to the District's water reclamation plants, or to the environment. The District also provides copies of all enforcement actions taken against an IU in noncompliance with the Ordinance, to the municipality in which the IU is located.

## Program Element 12

The District must maintain all records regarding IUs in a database which will allow for easy retrieval of information.

Pursuant to its approved pretreatment program, the District has developed a computerized data management system which provides for the storage of all essential information contained in the Facility Classification Questionnaire/ Industrial Category Determination Questionnaire (IU Survey) and BMR, enforcement history of the IU, the District's analytical data from sampling of IU discharges, and the District's inspection reports.

During 1990, the District conducted a comprehensive analysis of its pretreatment program information management system (PIMS), using contract consulting services. This analysis resulted in recommendations for changes in the District's current PIMS, as well as data management systems for the District's User Charge program and its Finance Department. The District conducted a review of these recommendations during 1991 and commenced implementation of those recommendations which were found to have merit, using both professional staff and contract consulting services.

During 1997, the District continued implementation of the PIMS recommendations where appropriate, using both professional staff and contract consulting services.

Program Element 13

The District must maintain adequate staff and equipment to enable it to execute all pretreatment program responsibilities in a timely manner.

Detailed information regarding the District's resources dedicated to the Pretreatment Program is included in the Pretreatment Program Summary, Part 3, Item 1.

Program Element 14

Pursuant to its approved pretreatment program, the District must submit a report of its pretreatment program activities, annually, to the USEPA and the IEPA.

This report satisfies the annual reporting requirement for calendar year 1997."

The District has collected performance data related to its WRPs for more than 20 years, along with a variety of ambient environmental data. The types and frequency of data collected by the District to assess WRP performance are summarized in Table 3.

**Why Regulatory Relief?**

Some POTWs have mastered the programmatic aspects of the Pretreatment Program (identifying industrial users, permitting, monitoring, etc.) and want to move into more environmental performance-based processes. These POTWs have expressed an interest in being allowed to focus their resources on activities that they believe will provide greater environmental benefit than is achieved by complying with the current requirements. Some POTWs want to be able to make decisions on allocating resources based on the risk associated with the industrial contributions they receive or other factors. Others want to be able to focus more resources on ambient monitoring in their receiving waters and/or to integrate their Pretreatment Program with their storm water monitoring programs. In general, these POTWs and the opportunity to redirect limited resources away from currently required activities that they do not believe are benefiting the environment and toward activities that can achieve measurable improvements in the environment. Project XL was implemented to provide flexibility to conduct these types of innovative projects.

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 3

ENVIRONMENTAL MONITORING DATA FOR WATER RECLAMATION PLANT PERFORMANCE

| Area of Interest | Historical | Current |
|---|---|---|
| Influent | Metals, toxics (cyanide, etc.) BOD, COD, solids, nutrients (N, P) monitored daily; priority organics monitored annually; period >20 years | Same as historical |
| Effluent | Metals, toxics (cyanide, etc.) BOD, COD, solids, nutrients (N, P) monitored daily; priority organics monitored annually; period >20 years | Same as historical |
| Sludge | Metals, nutrients, solids monitored weekly; priority organics monitored annually - 20 years | Same as historical |
| Whole Effluent/Toxicity | Acute and chronic testing (fish, Daphnia) quarterly - 13 years | Same as historical |
| Sediment | Metals, toxics, TOC, COD monitored bi-annually - 15 years | Same as historical |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 3 (Continued)

ENVIRONMENTAL MONITORING DATA FOR WATER RECLAMATION PLANT PERFORMANCE

| Area of Interest | Historical | Current |
|---|---|---|
| Biological Indices (e.g. macroinvertebrates fish tissue) | Benthic organisms and fish population survey every three years - 15 years | Same as historical |
| Ambient Water Quality Monitoring | Metals, toxics, DO, nitrogen (ammonia, nitrites, nitrates), solids monitored monthly - 25 years | Same as historical |
| POTW Air Emissions | Volatile organic compound emissions from WRP process facilities monitored semi-annually - 10 years | Same as historical |
| POTW Worker Health and Safety | No significant data available | No significant data available |

The District is seeking regulatory flexibility with regard to the oversight of small CIUs that have very low potential to adversely impact the operations of the District's WRPs and the environment. For purposes of this proposal, the District is proposing the following definition of "de minimis CIU:"

> "A de minimis CIU is defined as any industrial user subject to categorical pretreatment standards that meets all of the following conditions:
>
> - The discharge of process wastewater subject to Categorical Pretreatment Standards from the CIU does not exceed 0.01 percent of the design hydraulic capacity of the receiving WRP, nor does it exceed 10,000 gallons per day.
>
> - The discharge of process wastewater subject to Categorical Pretreatment Standards from the CIU does not exceed 0.01 percent of design organic treatment capacity of the receiving WRP.
>
> - The discharge of process wastewater subject to Categorical Pretreatment Standards from the CIU does not exceed 0.01 percent of the five-year average headworks loading at the receiving WRP of any pollutant for which the CIU is subject to a Categorical Pretreatment Standard.
>
> - The CIU has not been in significant noncompliance with applicable effluent discharge standards for the most recent eight consecutive calendar quarters."

The maximum allowable discharge criteria for de minimis CIUs tributary to each of the District's seven WRPs are shown in Table 4.

Conformance with the conditions set forth in the definition of de minimis CIU will be reassessed at least annually by the POTW. If a facility no longer falls within the scope of the de minimis CIU definition because of a change in the nature of its operations or if the facility is found in significant noncompliance, the facility's status as a de minimis CIU will be revoked and the facility will revert to full SIU status.

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4

PROPOSED MAXIMIUM ALLOWABLE DISCHARGE CRITERIA FOR DE MINIMIS CIU DESIGNATION
(Expressed as pounds per day, except flow [gallons per day])

| Parameter | Calumet WRP | John E. Egan WRP | Hanover Park WRP | James C. Kirie WRP | Lemont WRP | North Side WRP | Stickney WRP |
|---|---|---|---|---|---|---|---|
| Flow | 10,000 | 3,000 | 1,200 | 7,200 | 230 | 10,000 | 10,000 |
| BOD | 38.881 | 6.274 | 1.543 | 6.347 | 0.239 | 28.129 | 201.767 |
| Arsenic | ND[1] | ND | 0.00 | ND | ND | ND | ND |
| Barium | 0.021 | 0.002 | 0.001 | 0.004 | 0.000 | 0.014 | 0.088 |
| Cadmium | 0.000 | 0.000 | ND | 0.000 | 0.000 | 0.000 | 0.002 |
| Chromium | 0.002 | 0.000 | 0.000 | 0.001 | ND | 0.004 | 0.117 |
| Copper | 0.015 | 0.003 | 0.001 | 0.005 | 0.000 | 0.013 | 0.116 |
| Cyanide | 0.070 | 0.001 | 0.000 | 0.001 | 0.000 | 0.005 | 0.032 |
| Fluorine | 0.132 | 0.028 | 0.001 | 0.062 | 0.001 | 0.278 | 1.072 |
| Iron | 0.781 | 0.051 | 0.009 | 0.098 | 0.003 | 0.249 | 3.492 |
| Lead | 0.001 | ND | ND | ND | 0.000 | ND | 0.039 |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4

PROPOSED MAXIMIUM ALLOWABLE DISCHARGE CRITERIA FOR DE MINIMIS CIU DESIGNATION
(Expressed as pounds per day, except flow [gallons per day])

| Parameter | Calumet WRP | John E. Egan WRP | Hanover Park WRP | James C. Kirie WRP | Lemont WRP | North Side WRP | Stickney WRP |
|---|---|---|---|---|---|---|---|
| Manganese | 0.038 | 0.003 | 0.001 | 0.005 | 0.000 | 0.015 | 0.130 |
| Mercury | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Nickel | 0.001 | ND | ND | ND | ND | ND | 0.022 |
| Oil & Grease | 6.554 | 0.986 | 0.302 | 1.285 | 0.003 | 6.665 | 26.421 |
| Phenols | 0.179 | 0.002 | 0.001 | 0.004 | 0.000 | 0.013 | 0.316 |
| Selenium | ND | ND | 0.000 | ND | ND | ND | ND |
| Silver | ND | 0.000 | 0.000 | 0.000 | ND | 0.001 | 0.006 |
| Zinc | 0.098 | 0.004 | 0.001 | 0.009 | 0.000 | 0.030 | 3.088 |
| Benzene | 0.007 | ND | ND | ND | ND | ND | 0.001 |
| Chloroform | 0.001 | 0.000 | 0.000 | 0.000 | 0.000 | ND | 0.004 |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4

PROPOSED MAXIMIUM ALLOWABLE DISCHARGE CRITERIA FOR DE MINIMIS CIU DESIGNATION
(Expressed as pounds per day, except flow [gallons per day])

| Parameter | Calumet WRP | John E. Egan WRP | Hanover Park WRP | James C. Kirie WRP | Lemont WRP | North Side WRP | Stickney WRP |
|---|---|---|---|---|---|---|---|
| Dichlorobromomethane | ND | ND | ND | ND | ND | ND | 0.000 |
| 1,2-Dichloropropane | ND | ND | ND | ND | ND | ND | 0.001 |
| Ethyl benzene | 0.001 | ND | 0.000 | 0.000 | ND | 0.001 | 0.002 |
| Methylene chloride | 0.002 | 0.003 | 0.000 | 0.001 | ND | 0.002 | 0.009 |
| Tetrachloroethylene | 0.001 | 0.000 | 0.000 | 0.000 | 0.000 | 0.003 | 0.007 |
| Toluene | 0.010 | 0.000 | 0.000 | 0.000 | 0.000 | 0.003 | 0.013 |
| 1,2-trans-Dichloroethylene | 0.000 | 0.000 | 0.000 | 0.000 | ND | 0.001 | 0.002 |
| 1,1,1-Trichloroethane | 0.000 | ND | ND | ND | ND | 0.000 | 0.001 |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4

PROPOSED MAXIMIUM ALLOWABLE DISCHARGE CRITERIA FOR DE MINIMIS CIU DESIGNATION
(Expressed as pounds per day, except flow [gallons per day])

| Parameter | Calumet WRP | John E. Egan WRP | Hanover Park WRP | James C. Kirie WRP | Lemont WRP | North Side WRP | Stickney WRP |
|---|---|---|---|---|---|---|---|
| Trichloroethylene | 0.000 | 0.000 | 0.000 | 0.000 | ND | 0.004 | 0.005 |
| 2,4-Dimethylphenol | 0.006 | ND | ND | ND | ND | ND | ND |
| Phenol | 0.050 | 0.000 | 0.000 | 0.000 | 0.000 | 0.001 | 0.066 |
| Anthracene | ND | ND | ND | ND | ND | ND | 0.000 |
| Benzo-(a)-anthracene | 0.000 | ND | ND | 0.000 | ND | ND | ND |
| Benzo-(a)-pyrene | 0.000 | ND | ND | ND | ND | ND | ND |
| Benzo-(k)-fluoranthene | 0.000 | ND | ND | ND | ND | ND | ND |
| Bis(2-ehtylhexyl)phthalate | 0.008 | 0.001 | 0.000 | 0.002 | 0.000 | 0.003 | 0.034 |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4

PROPOSED MAXIMIUM ALLOWABLE DISCHARGE CRITERIA FOR DE MINIMIS CIU DESIGNATION
(Expressed as pounds per day, except flow [gallons per day])

| Parameter | Calumet WRP | John E. Egan WRP | Hanover Park WRP | James C. Kirie WRP | Lemont WRP | North Side WRP | Stickney WRP |
|---|---|---|---|---|---|---|---|
| Butylbenzyl phthalate | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.002 | 0.003 |
| Chrysene | 0.000 | ND | ND | 0.000 | ND | ND | 0.000 |
| Diethylphthalate | 0.001 | 0.000 | 0.000 | 0.000 | 0.000 | 0.001 | 0.003 |
| Di-n-butyl-phtha-late | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.001 | 0.002 |
| Di-n-octyl-phtha-late | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | ND | 0.000 |
| Fluoranthene | 0.001 | ND | ND | 0.000 | ND | ND | 0.001 |
| Naphthalene | 0.002 | ND | 0.000 | ND | ND | ND | 0.001 |
| Phenanthrene | 0.001 | ND | ND | 0.000 | 0.000 | ND | 0.002 |
| Pyrene | ND | ND | ND | 0.000 | ND | ND | 0.001 |

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4

PROPOSED MAXIMIUM ALLOWABLE DISCHARGE CRITERIA FOR DE MINIMIS CIU DESIGNATION
(Expressed as pounds per day, except flow [gallons per day])

| Parameter | Calumet WRP | John E. Egan WRP | Hanover Park WRP | James C. Kirie WRP | Lemont WRP | North Side WRP | Stickney WRP |
|---|---|---|---|---|---|---|---|
| PCB-1254 | 0.000 | ND | ND | ND | ND | ND | 0.000 |
| PCB-1260 | 0.000 | ND | ND | ND | ND | ND | 0.000 |
| PCB-1016 | 0.000 | ND | ND | ND | ND | ND | ND |
| γ-BHC | ND | 0.000 | ND | ND | ND | ND | ND |

The District estimates that 80 of the 362 CIUs currently regulated under the District's Pretreatment Program would qualify for this de minimis CIU status.

The District is proposing reductions in the permitting burden that it faces regarding these de minimis CIUs, through issuance of non-expiring control mechanisms (Discharge Authorization or DA). Presently, under the General Pretreatment Regulations, DAs issued to SIUs must have a finite term of not more than five years, and must be reissued even when operating conditions at the SIU do not change.

The District is proposing reduced self-monitoring and reporting requirements applicable to these de minimis CIUs. Under the General Pretreatment Regulations, all SIUs must conduct self-monitoring and must submit periodic compliance reports at least twice annually. The District is proposing that the frequency of self-monitoring and reporting for de minimis CIUs be reduced to once annually. Reports submitted annually would continue to be subject to all applicable requirements regarding report content and certification.

The District is proposing reduced inspection and monitoring requirements applicable to the District with regard to these de minimis CIUs. Under the General Pretreatment Regulations, the District is required to inspect and monitor each SIU at least once annually. The District is proposing that the frequency of inspection and monitoring that it must perform with regard to de minimis CIUs be reduced to once biennially.

The District is seeking regulatory flexibility with regard to the oversight of CIUs that are participating in voluntary Strategic Goals Programs for their respective industrial sectors with EPA. Under the CSI, EPA and the Metal Finishing Sector have developed the first sector-wide SGP. The SGP established both facility-specific and sector-wide performance goals that extend beyond traditional compliance with environmental regulations. The District is proposing to extend the objectives of the SGP for participants that fully achieve the facility-specific goals of the SGP, through the Partnerships. Under these Partnerships, the District would work cooperatively with demonstrated sector leaders to develop, test and implement alternative measurement systems for demonstrating environmental performance.

The District is proposing flexibility with regard to self-monitoring requirements for SIUs that enter into Partnerships with the District. Under the General Pretreatment Regulations, self-monitoring activities of SIUs must conform to rigorous sampling and analytical protocols specified by EPA. Since proposed alternative measurement systems may include sampling and analytical protocols that differ from those currently required under the General Pretreatment Regulations, the District is proposing that SIUs be allowed to use such alternative measurement systems that are shown to accurately demonstrate environmental performance, to satisfy their self-monitoring and reporting obligations. One example of alternative measurement systems is the use of statistical process control data which is collected by the SIU at critical points within its process train, often at intervals far more frequent than effluent discharge monitoring. During the developmental phase of the Partnership, the District and the SIU would extensively collect and analyze both process control data and effluent discharge data, to establish a statistically valid correlation between the two data sets. Where such a statistical correlation can be established, the District and the SIU would develop alternative performance expectations for the SIU based on the correlated alternative data set, that demonstrate performance equivalent to compliance with applicable pretreatment standards. During the implementation phase of the Partnership, the SIU would demonstrate compliance with applicable pretreatment standards by reporting compliance with the alternative performance expectations. As part of its mandated regulatory oversight function, the District would continue to assess compliance with applicable pretreatment standards through effluent discharge monitoring appropriate to the applicable standards.

In recognition of the substantial, long-term commitment that SIUs must make to achieve facility-specific goals established in Strategic Goals Programs and the additional, long-term commitment required of Partnership participants, the District is also seeking regulatory relief for Partnership participants with regard to new categorical pretreatment standards or requirements. Specifically, where a proposal to modify an existing categorical pretreatment standard or to develop a new categorical pretreatment standard conflicts with the environmental performance strategy of a Partnership participant, the District is seeking deferral of the new standard or requirement during the duration of the Partnership effort.

The District is seeking regulatory relief with regard to the content and format of periodic Pretreatment Program reports

that it is required to submit to EPA and the Illinois EPA. Under the current reporting format, the District must provide detailed information regarding oversight of each of the 575 SIUs within its jurisdiction, without regard to the SIU's environmental performance. The District is proposing revision of its Pretreatment Program Annual Report format to include detailed information regarding environmental performance that is not currently required in the Annual Report. To offset the burden on the District to include this additional information in its Annual Report, the District is proposing that the detailed oversight information regarding SIUs be limited to only the population of SIUs that were found in significant noncompliance at any time during the report year. However, the District would continue to collect all required information and would make such information available to EPA and the public as required.

## II. PROCESS

[Potential stakeholders have been advised of the District's intent to submit this Project XL proposal, but stakeholder input has not been sought at this time, pending USEPA approval of the detailed project proposal. Upon approval by the USEPA, the District will implement the stakeholder review process.]

### Process for FPA Development/Stakeholder Involvement

In order for this Project to reach the FPA development stage, the Project underwent EPA's selection and screening process. After selection and screening, full development of this FPA occurred approximately over a ***XXX***-month timeframe. During this ***XXX*** month period, the District, EPA, the Illinois EPA and other interested stakeholders negotiated the final language of this document.

The first step in FPA development was to convene a stakeholder group of interested parties. In the development of the Chicago regional SGP, a stakeholder group consisting of representatives from the District, EPA, Illinois EPA, industry, technical assistance providers and non-governmental environmental interest groups was created. Because the District's Project is a logical extension of the Chicago regional SGP, the District determined that it could effectively use the same stakeholder group for purposes of this Project. The various organizations invited to participate in the stakeholder group are identified in Table 4.

The next step in the process involved refining of issues and the drafting of a detailed Project description for review and refinement by all stakeholders. This FPA outlines the details of the Project and each party's commitments. Specifically, the participants defined the innovations to be tested, the anticipated superior environmental performance resulting from the Project, the flexibility sought from EPA and other co-regulators, the conditions necessary for Project implementation and the Project performance measurement plan. All parties were given the opportunity to review and provide input to the draft document, including a cross-Agency review team, consisting of, but not limited to, members from EPA's Office of Enforcement and Compliance Assurance, Office of Policy, Planning and Analysis, Office of Regulatory Enforcement, Office of Reinvention and Office of Water. The Illinois EPA also participated in Project development and was given opportunity to review and comment on the Project. The draft document was sent out for notice and comment in the Federal Register and was then signed by the affected parties.

## III. XL PROJECT DESCRIPTION

### Scope

### A. Existing Pretreatment Program Requirements

#### 1. Industrial Waste Survey Requirements

Under its existing approved Pretreatment Program, the District must identify all non-residential users tributary to its facilities, determine the nature of their activities and the pollutants discharge therefrom into the sewerage system, and advise each user of applicable Pretreatment Standards and its obligation to comply with said standards. The District accomplishes this survey through ongoing surveillance of non-residential areas of its service area, through periodic review of telephone directories, trade association publications and the Illinois Manufacturers' Association directory. The District also annually solicits a listing of all business licenses granted by the 126 individual municipalities within its service area for review. Facilities thus identified as potential industrial users and then sent a Facility Classification Questionnaire (FCQ) to describe in detail the nature of their operations. FCQ forms are processed

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

TABLE 4

ORGANIZATIONS INVITED TO PARTICIPATE IN THE STAKEHOLDER GROUP FOR THE PROJECT XL PROPOSAL OF THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGP

| Organization | Activity |
|---|---|
| United States Environmental Protection Agency - Region 5 | Federal environmental regulator |
| Illinois Environmental Protection Agency | State environmental regulator |
| Chicago Metal Finishers Institute | Industry trade association |
| Citizens for a Better Environment | Non-governmental environmental interest group |
| Center for Neighborhood Technology | Non-governmental environmental interest group |
| Chicago Law Clinic | Non-governmental environmental interest group |
| Illinois Waste Management and Research Center | Technical assistance provider |
| Illinois Department of Commerce and Community Affairs | Technical and financial assistance provider |
| North Business and Industrial Council | Technical assistance provider |
| Back of the Yards Neighborhood Council | Non-governmental environmental interest group |

through a formal review process and are verified through on-site inspections by District personnel.

2. Permitting Procedures

Facilities identified as potential SIUs through the industrial waste survey process described above are required to submit detailed Discharge Authorization Requests and to obtain DAs from the District for the regulation of process wastewaters. DAs are issued for a period not exceeding five years and contain specific limitations on the volume of wastewater and concentrations of pollutants discharged from regulated processes. DAs also contain specific reporting and self-monitoring requirements applicable to the SIU.

3. Monitoring Requirements

Under the District Sewage and Waste Control Ordinance (Ordinance) and DAs issued to individual SIUs, each SIU is required to conduct self-monitoring of its process wastewater discharge and to submit Continued Compliance Reports (CCR) twice annually. For process wastewater discharges less than 200,000 gallons per day (gpd), the SIU must self-monitor the wastewater discharge on at least three days during a two-week period for each semi-annual CCR. For process wastewater discharges exceeding 200,000 gpd, the SIU must monitor self-monitor the wastewater discharge on at least six days during a two-week period for each semi-annual CCR. All monitoring must conform to the provisions of 40 CFR 403.12 and all analytical methods must conform to the provisions of 40 CFR 136. An authorized representative of the SIU must certify all data contained in the CCR as accurate and complete.

The District inspects each SIU and monitors the process wastewater discharge from each SIU on at least four days, annually, to verify continued compliance with the terms and provisions of the DA issued to the SIU. All monitoring must conform to the provisions of 40 CFR 403.8 and all analytical methods must conform to the provisions of 40 CFR 136.

4. Enforcement Procedures

The District's formal Enforcement Response Plan (ERP) was submitted to EPA, Region 5 in December 1989 and was incorporated into the District's Ordinance in 1991. The ERP describes the enforcement actions available to the District for response to instances of IU noncompliance. These actions included informal Notices of Noncompliance for non-significant noncompliance and formal Cease and Desist (C&D) Orders for significant noncompliance. The C&D Order requires the submittal of a formal Compliance Schedule, certified by an authorized representative of the IU and a professional engineer registered in the state of Illinois, and the submittal of a Final Compliance Report, including the results of self-monitoring conducted to verify that compliance has been attained. The ERP also contains a Response Option Matrix that identifies the minimum enforcement response that may be considered in response to certain critical types of noncompliance, such as those instances involving pass-through and interference. The District has statutory authority to assess civil penalties in the range from $100.00 to $2,000.00 for each day of violation, in administrative proceedings before its Board of Commissioners, and to seek civil penalties in the range from $1,000.00 to $10,000.00 per day of violation, in civil actions in the Circuit Court. While the District does not have statutory authority to initiative criminal proceedings, it does have authority and established policy for referral of potential criminal actions to the State's Attorney's Office or the United States Attorney.

5. Reporting Requirements

As indicated above, under the District's Ordinance and DAs, SIUs are required to submit CCRs semi-annually, to demonstrate continued compliance with applicable Pretreatment Standards.

Under its NPDES permits, the District must submit an annual Pretreatment Program Report to its Approval Authority (currently EPA, Region 5), detailed the District's conformance with the Pretreatment Program provisions contained in 40 CFR 403.8. The annual report includes detailed information describing the Dis-

trict's resource commitment to the Pretreatment Program as well as detailed information describing the compliance status of each SIU.

6. Local Limits Development Process

The District's Ordinance was first adopted in 1969 and has contained technically based local limits since 1971. These local limits were developed through a stakeholder process involving representatives of the District, the regulated community and academia, and are considered protective of worker health and safety, WRP operations and the environment. Local limits are reviewed annually by the District's Research and Development Department to ensure appropriateness.

7. Current Resources

As reported in the District's Pretreatment Program Annual Report for 1997, the District has devoted the following resource levels to administration of its Pretreatment Program.

| Resource | Commitment |
|---|---|
| Field Surveillance Staff | 57 Full Time Equivalent Positions (FTE) |
| Enforcement Administration Staff | 29.5 FTEs |
| Analytical Laboratory Staff | 16.5 FTEs |
| Legal Administration Staff | 1.7 FTEs |
| Total Pretreatment Program Budget | $6,637,136 |

B. Proposed Changes

1. Industrial Waste Survey Requirements

The District is not proposing any changes to its current industrial waste survey activities.

2. Proposed Permitting Procedures

The District is seeking regulatory flexibility with regard to the oversight of small CIUs that have very low potential to adversely impact the operations of the District's WRPs and the environment. For purposes of this proposal, the District is proposing the following definition of small CIU:

"A small CIU is defined as any industrial user subject to categorical pretreatment standards that meets all of the following conditions:

- The discharge of process wastewater subject to Categorical Pretreatment Standards from the CIU does not exceed 0.01 percent of the design hydraulic capacity of the receiving WRP.

- The discharge of process wastewater subject to Categorical Pretreatment Standards from the CIU does not exceed 0.01 percent of design organic treatment capacity of the receiving WRP.

- The discharge of process wastewater subject to Categorical Pretreatment Standards from the CIU does not exceed 0.01 percent of the five-year average headworks loading at the receiving WRP of any pollutant for which the CIU is subject to a Categorical Pretreatment Standard.

- The CIU has not been in chronic or acute significant noncompliance for the most recent eight consecutive calendar quarters."

Conformance with the conditions set forth in the definition of small CIU shall be reassessed at least annually by the POTW.

The District is proposing reductions in the permitting burden that it faces regarding small CIUs, through issuance of non-expiring DAs. Presently under the General Pretreatment Regulations, DAs issued to

SIUs must have a finite term of not more than five years, and must be reissued even when operating conditions at the SIU do not change.

3. Proposed Monitoring Requirements

The District is proposing reduced self-monitoring requirements applicable to small CIUs. Under the General Pretreatment Regulations, all SIUs must conduct self-monitoring and must submit periodic compliance reports at least twice annually. Specifically, the District is proposing that the frequency of self-monitoring for small CIUs be reduced to once annually. Reports submitted annually would continue to be subject to all applicable requirements regarding report content and certification.

The District is also proposing reduced inspection and monitoring requirements applicable to the District with regard to small CIUs. Under the General Pretreatment Regulations, the District is required to inspect and monitor each SIU at least once annually. The District is proposing that the frequency of inspection and monitoring that it must perform with regard to small CIUs be reduced to once biennially.

4. Proposed Enforcement Procedures

The District is not proposing changes to its current ERP.

5. Proposed Reporting Requirements

The District is proposing reduced reporting requirements applicable to small CIUs. Under the General Pretreatment Regulations, all SIUs must conduct self-monitoring and must submit periodic compliance reports at least twice annually. The District is proposing that the frequency of reporting for small CIUs be reduced to once annually. Reports submitted annually would continue to be subject to all applicable requirements regarding report content and certification.

The District is also seeking regulatory relief with regard to the content and format of periodic Pretreatment Program reports that it is required to sub-

mit to EPA and the Illinois EPA. Under the current reporting format, the District must provide detailed information regarding oversight of each of the approximately 575 SIUs within its jurisdiction, without regard to the SIU's environmental performance. The District is proposing revision of its Pretreatment Program Annual Report format to include detailed information regarding environmental performance that is not currently required in the Annual Report. This additional information will include the 18 Pretreatment Program performance measures identified by the Association of Metropolitan Sewerage Agencies in its report entitled Case Studies in the Application of Performance for POTW Pretreatment Programs," 1997. To offset the burden on the District to include this additional information in its Annual Report, the District is proposing that the detailed oversight information regarding SIUs be limited to only the population of SIUs that were found in significant noncompliance at any time during the report year. However, the District would continue to collect all required information and would make such information available to EPA and the public as required.

6. Proposed Local Limits Development Process

The District is not proposing any changes to its current local limits review process

7. Proposed Resources

The District is not proposing any changes to its current overall resource commitment to the Pretreatment Program. Through application of the requested flexibility regarding small CIUs, the District anticipates that resources currently committed to mandated programmatic activities will become available for activities not currently being performed by the District. These activities include participation in the previously described Partnerships with industry and the implementation of TRAPs.

The cost of administering TRAPs will be segregated from and not included in the Pretreatment Program cost recovery component applicable to SIUs, but will be recovered through the District's User Charge

Program, which is applicable to all users of the District's services.

8. Expected Benefits Resulting From Proposed Changes

The District anticipates the following benefits from implementation of the proposed changes outlined above.

- With regard to qualified small CIUs, the cost of demonstrating compliance with Pretreatment Standards will decrease by 50 percent without reduction in current compliance levels and without increase in pollutant loading to the District's WRPs. The opportunity for decreased costs of demonstrating compliance will create an incentive for smaller facilities to implement pollutant reduction and water conservation efforts in pursuit of small CIU status, resulting in decreased loading of regulated pollutants into the District's WRPs. Further, the oversight cost to the District with regard to these small CIUs will decrease by 50 percent, with freed resources made available for other, environmentally beneficial activities.

- With regard to industry Partnerships, alternative measurement systems that provide reliable, accurate and less costly information regarding environmental performance, and can be performed substantially more often than traditional end-of-pipe effluent monitoring, will be assessed for their potential as surrogate indicators of environmental performance. Where successful alternative measurement systems are identified, the lessons learned from Partnerships will be shared with EPA and other industry partners. Further, the integration of process control data with effluent discharge data will provide Partnership participants with better tools for process management and will likely resulted in improved process performance, with concur-

rent decreased loading of regulated pollutants and reduced water consumption.

- TRAPs will result in environmental benefits in several areas. Since the pollutants to be investigated through the TRAP approach may come from sources not traditionally regulated or from diffuse sources requiring new control measures, the investigation phase itself will provide increased understanding of the pollutants of concern in the District's service area. The pollutant reduction phase will result in a real world assessment of the effectiveness of pollutant prevention and other outreach activities as source control mechanisms, and will result in observable reductions in the loading of the target pollutants into the District's sewerage system and the environment.

- The revised annual Pretreatment Program Report format will provide clearer, more concise information to the EPA and the public regarding the efficacy of the District's Pretreatment Program and will facilitate easier access to critical information regarding industrial users that are significantly violating Pretreatment Standards.

## II. Agreement

A. Signatories

[Final signatories will be determined based upon stakeholder input process.

The Signatories to this FPA are the EPA, the Illinois EPA, the District, *and stakeholder group participants.*

B. Significant of Agreement

Through discussions regarding the activities described in the Project, the parties agree that the activities, when fully implemented, will result in the following environmental benefits:

- Greater understanding of the nature and quantity of pollutants discharged into the sewerage system of the District and to the environment.

- Real reduction in the loading of those pollutants discharged into the sewerage system of the District and to the environment.

- Reduced reporting burden and cost of demonstrating compliance for small CIUs.

- Reduced oversight burden and cost of verifying compliance to the District, regarding small CIUs.

- Development and testing of alternative performance measurement systems that will allow increased frequency of environmental monitoring at less cost.

- Improved access to environmental performance data regarding the operations of the District and the industrial community tributary to its sewerage system.

- Innovative Pretreatment Program elements that are readily transferable to other POTWs for adoption.

C. Duration of Agreement

This FPA will be in effect for the period of five years, unless terminated earlier by the Signatories (minimum Project Term). At least 180 days prior to the end of the five-year period of this FPA, the District may apply for renewal or extension of the Project period. A renewal or extension or the Project period will be treated as a modification of the FPA, and is addressed in Section F below. If the District is not able to meet the performance goals of its Local Pilot Pretreatment Program, the Approval Authority may allow the performance measures to be adjusted if the primary objectives of the Local Pilot Pretreatment Program will be met. The revised Local Pilot Pretreatment Program must be approved in accordance with the procedures in 40 DFR 403.18.

If the primary objectives of the proposal are not being met, the Approval Authority shall direct the District to discontinue implementing the Local Pilot Pretreatment Program and re-

sume implementation of its previously approved Pretreatment Program by amending the NPDES permit (and/or other implementation mechanism) accordingly. The Approval Authority will ensure that the District's NPDES permit includes a reopener clause with this requirement.

D. Enforceability of the FPA

This FPA is not intended to create legal rights or obligations and is not an enforceable contract or a regulatory action such as permit by rule. This applies to both the substantive and the procedural provisions of the FPA. Thus, for example, the FPA establishes procedures that the parties intend to follow respect to termination under the FPA. However, while the parties fully intend to follow these procedures, they are not legally obligated to do so. Because it is not legally enforceable, the FPA is not an agency "action" that could be reviewable; in addition, no action or omission by any party to the PFA could give rise to any claim against the party for penalties, damages or other compensation based solely on the claim that the action or omission was at variance with a provision or provisions of the FPA.

E. Modification of Agreement/Reopener

The FPA may be modified by mutual agreement of all parties at any time during the minimum Project term. The parties recognize that certain modifications to the Project may necessitate modification of any existing implementation mechanisms or may require development of new implementation mechanisms, as provided in Section I. In that case, all Signatories expect to work together to identify and pursue any modifications or additions to the implementation mechanisms required, in accordance with procedures applicable to the modification of the relevant implementation mechanism. To the extent that the parties agree to make a material modification of the Project, appropriate notice of such modification, as set forth in this FPA and the implementing mechanism, and an appropriate opportunity to participate in the process will be provided to all stakeholders and other interested parties.

In recognition that the Project is an experiment designed to test mew approaches to environmental protection, and of the uncertain nature of the environmental benefits and costs associated with the activities to be undertaken in this Project, the parties to this FPA agree to evaluate the appropriateness of a

modification or "reopener" to the FPA according to the provisions set forth below.

During the minimum Project term (initially five years), the District may seek to reopen and modify this FPA in order to address matters covered in the FPA, including failure of the Project to achieve superior environmental results, or the enactment or promulgation, after execution of this FPA, of any environmental, health or safety law or regulation which renders the Project legally, technically or economically impractical. To do so, the District will submit a proposal for a reopener under this Section to EPA and the Illinois EPA for their consideration. EPA and the Illinois EPA will review and evaluate the appropriateness of such proposal submitted by the District. EPA or the Illinois EPA may also elect to initiate termination under Section III of this FPA, which shall supersede application of this Section.

In determining whether to reopen and modify the FPA in accordance with any reopener proposal(s) submitted by the District under this Section, EPA and the Illinois EPA will base their decision upon the following: (a) whether the proposal meets the Project XL Criteria in effect at the time of the proposal, (b) the environmental benefits expected to be achieved by the proposal, (c) the level of emissions or effluent included in the proposal, (d) other environmental benefits achieved as a result or other activities under the proposal, and (e) any net adverse environmental impacts expected to occur as a result of the proposal.

All parties to the FPA will meet within 90 days following submission of any reopener proposal by the District to EPA or the Illinois EPA, or within such shorter or longer period as the parties may agree, to discuss the Agencies' evaluation of the reopener proposal. If, after appropriate stakeholder involvement, the Agencies support reopening of this FPA to incorporate the proposal, the parties will, subject to any required public comment, take steps necessary to amend the FPA. Concurrent with the amendment of this FPA, EPA and the Illinois EPA will take steps consistent with Section 1 to implement the proposal.

F Termination of Agreement

a) Expectations Concerning Termination

This FPA is not a legally binding document and any party may withdraw from the FPA at any time. If

parties do withdraw from the FPA, the regulation and/or permit will remain enforceable until modified. However, it is the desire of the parties that this FPA should remain in effect through the expected minimum Project term, and, during that time, be implemented as fully as possible. Although EPA retains its discretion to terminate the FPA at any time, it is the intent of the parties that this Project will be terminated unilaterally during the expected minimum project term of this FPA unless one of the following conditions set forth below occurs:

1. Failure (taking into account its nature and duration) by any other party to (a) comply with the provisions of the implementation mechanisms for this Project, or (b) act in accordance with the provisions of this FPA;

2. Discovery of the failure of any other party to disclose material facts during development of the FPA;

3. Failure of the Project to provide enhanced environmental benefits and/or performance consistent with the expectations of this FPA;

4. Enactment or promulgation of any environmental, health, or safety law or regulation after execution of this FPA which renders the Project legally, technically, or economically impracticable; or

5. Decision by a party to reject the proposed assumption by a future owner or operator of the Facility of the District's rights and obligations under the Project.

Unless the parties determine, consistent with the provisions of Section III, II, D and G of this FPA, that continuation of the Project past the minimum Project term is warranted, this FPA will be terminated as of the end of the minimum Project term.

EPA and the District do not intend to withdraw from the FPA based on noncompliance by the District with the implementation mechanisms, unless such noncompliance constitutes a material failure to comply with the implementation mechanisms, taking into account its nature and duration of the noncompliance. EPA and the Illinois EPA retain their discretion to address noncompliance, as appropriate, through existing enforcement authorities available to the parties. As set forth in Section IV, the District retains all rights to defend against any such enforcement actions.

b) Termination Procedures

The parties agree that the following procedures will be used to terminate the Project prior to the minimum Project term, and further that the implementation mechanisms will be provide for withdrawal or termination consistent with these procedures:

Any party desiring to terminate this FPA is expected to provide written notice of its intent to terminate to the other parties at least 60 days prior to termination.

If requested by any one party during the 60 day period noted above, the dispute resolution proceedings provided in Section III, II, H herein, may be initiated to resolve any dispute relating to the intent to terminate. If, following any dispute resolution or informal discussion, the party still desires to terminate, the terminating party will provide written notice of final termination to all parties to the FPA.

If any party terminates its participation in this FPA, the remaining parties will consult with the District to determine whether the FPA should be continued in a modified form consistent with applicable federal and state law, or terminated.

The termination procedures set forth in this Section b.) apply to the decision to terminate participation in the FPA. Procedures to be used in modifying or rescinding the legal mechanisms used to implement the Project will be governed by the terms of those legal mechanisms and applicable law.

c) Post-Project Compliance Period

1. *Orderly Return to Compliance in the Event of Early Termination:* In the event of any termination not based upon the end of the expected minimum Project term (initially five years), there will be an Interim Compliance Period to provide sufficient time consistent with permit modification procedures set forth in 40 CFR § 122.1 et seq. for the District to come into compliance with the regulations deferred under the Project. By the end of the Interim Compliance Period, the District will comply with the applicable standards set forth in 40 CFR Part 403 and the applicable Illinois Administrative Code governing the Pretreatment Program. During the Interim Compliance Period, EPA and the Illinois EPA will issue an order, permit or other legally enforceable mechanism establishing an implementation schedule for the District's orderly return to compliance as soon as practicable, but no later than 12 months from the date of termination. The Interim Compliance Period is 15 months from the date on which EPA, the Illinois EPA or the District provides written notice of final termination of the Project in accordance with the terms of this FPA. It is the District's intent to be in full compliance with all applicable requirements above as soon as practicable, as will be set forth in the implementation schedule.

2. *Orderly Return to Compliance in the Event of Completion of Project Term:* In the event of termination based upon the end of the Project term, the District will achieve compliance will all applicable requirements by the end of the minimum Project term, unless the Project is modified in accordance with [F - Modification]. The District is expected to anticipate and plan for all activities necessary to come into compliance upon completion of the Project sufficiently in advance of the end of the Project term. The District may request a meeting with EPA and the Illinois EPA to discuss the timing and nature of any actions that the District will be required to take to come into compliance with regulatory requirements that have been deferred under this Project and

should request such a meeting at least 60 days in advance of the anticipated completion date of the project term. The parties expect that they will meet within 30 days or receipt of the District's written request for such a discussion. At and following such meeting, the parties expect that they will engage in reasonable good faith discussion to identify the extent to which requirements deferred under this Project will apply after termination of this Project.

H. Dispute Resolution

Any dispute that arises with respect to the meaning, application, implementation, interpretation, amendment, termination or modification of the FPA will, in the first instance, be the subject of informal discussions. To initiate informal discussions, any party which believes it has a dispute with any other party will simultaneously notify all parties, in writing, setting forth the matter(s) in dispute.

If the dispute cannot be resolved by the parties within 30 days of receipt of such notice (or such longer time as agreed to by the parties to the dispute), then one or both of the parties may invoke non-binding mediation by setting forth the nature of the dispute, with a proposal for its resolution, in a letter to the EPA Region 5 Administrator, with a copy to all parties. The EPA Regional Administrator or the disputants may request an informal mediation meeting. The disputants may request an opinion from the Regional Administrator in lieu or in addition to the mediation meeting. Any opinion, verbal or written, expressed by the Regional Administrator will be non-binding.

Nothing in this section will be construed to alter the parties' expectations regarding the ability to terminate or withdraw from the FPA set forth in the provision of Section III, II, G, C—Termination of Agreement/Post Project Compliance Period.

I. Implementation

To implement the Project, the parties intend to take the following steps:

A. EPA expects to propose for public comment and promulgate (subject to review and public comment) a site-specific rule amending 40 CFR Pat 403 so as to defer application of the requirements of

Part 403 to the District's facilities. The rule will provide flexibility to the District in the implementation of its approved Pretreatment Program, as described in Section III, B of this FPA. It is expected that the site-specific rule will provide for Termination and a Post-Project Compliance Period consistent with Section III, II, G of the FPA, and will address the transfer procedures included in Section IV, 5. The standards and reporting requirements set forth in Section I and III of this FPA will be implemented in the site-specific rule.

B. The Illinois EPA expects to propose for public comment and promulgate (subject to review of public comment and legislative approval, if necessary) a rule or rules adopting the site-specific requirements granted by the EPA pursuant to Section VI, A above. The Illinois EPA expects to propose for public comment (subject to review of public comment and applicable approval procedures) a permit or permits needed by the District under this Project.

C. Except as provided in any rule(s), compliance order(s), permit provisions or other implementation mechanisms that may be adopted to implement the Project, the parties do not intend that this FPA will modify or otherwise alter the applicability of existing or future laws or regulations to the District's facilities.

D. By signing this FPA, the EPA, the Illinois EPA and the District acknowledge and agree that they have the respective authorities and discretion to enter into this FPA and to implement the provisions of this Project, to the extent appropriate.

J. Reporting and Periodic Reviews

The District is required to periodically report the progress of its pilot program, as set forth below. The District's period report will describe its Local Pilot Pretreatment Program activities and accomplishments, including activities and accomplishments of any participating agencies and public involvement. The report will include an analysis of all environmental data collected over the reporting period and activities conducted to

reduce pollutant loadings to the environment and any other activities that address the objectives of the Local Pilot Pretreatment Program.

The report following the fourth year of pilot program implementation will also include the findings of the pilot. This report will specifically address all objectives of the pilot program and provide measures related to the effectiveness of the program, as implemented, in meeting the objectives. The report will also include recommendations concerning the implementation of the Pretreatment Program at the local level.

The minimum report requirements will be detained in the District's NPDES permit. This requirement will be similar to the current requirement for the District to annually report to the Approval Authority the status of its Pretreatment Program (see 40 CFR 403.12(i). At the discretion of the NPDES permitting authority, the report may be required more frequently than once per year. The District is required to submit regulatory reports on the non-waived requirements of its Pretreatment Program.

K. Events Preventing Project Implementation/Unavoidable Delay

This section applies to the provisions of this FPA that do not encompass enforceable regulatory mechanisms. Enforceable mechanisms, such as permit provisions or rules, shall be subject to modification or enforcement as provided in applicable law.

"Unavoidable delay" for purposes of the project described in this FPA is defined as any event arising from causes beyond the control of any Party or Parties that delays or prevents the implementation of the project described in this FPA despite the Parties' best efforts to put their intentions into effect. An unavoidable delay event includes, without limitation, delay arising from fire, unusual storm events, acts of war, vandalism, or legislative or judicial bars to performance. An unavoidable delay does not include any increase in costs necessary to undertake and successfully complete the project in a timely fashion.

When any event occurs that may delay or prevent the implementation of this project, whether or not it is unavoidable, the Party with knowledge of the event will provide verbal notice to the designated representatives of the remaining Parties. Within ten days of the Party providing initial notice of the event a written confirming notice will be provided. The confirming notice will include the reason for the delay, the anticipated du-

ration of the delay, all actions taken to prevent or minimize the delay, and the Party's rationale for considering such a delay to be unavoidable. The Party providing notice will include all available documentation supporting the claim that the delay was unavoidable.

If the Parties, after reasonable opportunity to confer, agree that the delay is attributable to an unavoidable delay, then the time for performance of obligations that are affected will be extended to cover the period lost due to the delay. If the Parties agree, the Parties will document their agreement in a written amendment to this FPA. If the Parties do not agree, then the provisions for Dispute Resolution in Section H will be followed.

## III. Requirements of NPDES Permit (revisions)

[This Section is to be completed by USEPA's Office of Water]

The pilot alternative Local Pretreatment Program will become an enforceable part of the POTW's NPDES permit. Provide a summary of the alternative program and attach a copy of the full description of the alternative program following the requirements of 40 CFR 403.9(b).

## IV. Analysis to Determine eligibility for a conditional variance

A. Provide summary information demonstrating that your local Pretreatment Program meets these requirements:

1. The POTW is administering an Approved POTW Pretreatment Program.

2. The POTW has a solid record of compliance. In general, this means that the POTW must not be the subject of a planned or ongoing judicial or administrative enforcement action, be in significant noncompliance with applicable requirements, or have outstanding obligations under (or be in violation of) an order or consent decree. Additionally, a POTW's history of compliance will also be considered; POTWs most likely to be included in the pilot program would be those which do not have a history or pattern of violations, violations resulting in serious threats or

harms, or have other recent significant compliance problems.

3. The POTW has five years of influent, effluent, and sludge quality data, as well as three years of ambient water quality measurements for its receiving water or can demonstrate the ability to collect ambient data and therefore need not have in its possession three years of ambient water data.

B. Federal Implementation Mechanisms - description of federal requirements to be met.

C. State Implementation Mechanisms - description of State requirements to be met.

## V. Environmental Benefits [TO BE FILLED BY OW/OECA/OGC/OR]

[This Section to be completed by USEPA's Office of Water, Office of Enforcement and Compliance Assurance, Office of General Counsel and Office of Reinvention]

How will project provide SEP? Baseline Assessment

This project was chosen as an XL Project because it has the potential to achieve environmental performance that is superior to what would have been achieved absent the XL Project. The EPA, the Illinois EPA and the District have developed a quantitative and qualitative baseline estimate of what would have happened to the environment absent the project and have compared that baseline estimate against the project's anticipated environmental performance to determine that the anticipated environmental performance will produce a level of environmental performance superior to the baseline.

[A detailed description of the anticipated Superior Environmental Performance/ Environmental Benefit from the project must be included. This must include a description of the measures that will be used to assess the benefit gained from the project.]

[INSERT SPECIFICS]

## IV. RIGHTS RETAINED AND PROJECT TRANSFER

### 1. Rights Retained

Except as expressly provided in the legal implementation mechanisms, nothing in the FPA shall be construed to affect or limit either the District's legal rights or the Agencies' rights to seek legal, equitable, civil, criminal or administrative relief regarding the enforcement of present or future applicable federal and state code, rules, or regulations with respect to the Facility or the District.

Although the District does not intend to challenge agency actions implementing the Project (including any rule amendments or adoptions, permit actions, or other action) that are consistent with this FPA, the District nevertheless reserves its right to appeal or otherwise challenge any and all agency actions implementing the Project. Nothing in this FPA is intended to limit the District's right to administrative or judicial appeal or review of any modification or termination of those legal mechanisms in accordance with the applicable procedures for such review.

### 2. Transfer of Project Benefits and Responsibilities

It is expected that the implementation mechanisms will allow for the transfer of the District's rights and obligations under the Project to any future owner or operator upon request of the District and such owner/operator, provided that the following conditions are met:

A. The District will provide written notice of any such proposed transfer to EPA and the Illinois EPA at least 45 days prior to the effective date of the transfer. The notice is expected to include identification of proposed transferee, a description of the proposed transferee's financial and technical capability to assume the obligations associated with the Project, and a statement of the transferee's intention to sign the FPA as an additional party.

B. Within 30 days of receipt of the written notice, it is expected that the Agencies will determine whether the transferee has demonstrated adequate financial and technical capability to carry out the Project and a willingness to sign the FPA. It is expected that the implementation mechanisms will provide that, so long as the demonstration has been made to the satisfaction and unreviewable discretion of the Agencies, and upon consideration of other relevant factors, the FPA will be modified to allow the proposed transferee to assume the rights and obligations of the District.

In the event that transfer is disapproved by any agency, withdrawal or termination may be initiated, as provided in Section II, G.

C. Upon approval of transfer under this section, DPA, the Illinois EPA, and the District will amend the rule, permit and other implementing mechanism(s) (subject to public notice and comment) to legally transfer the rights and obligations of the District under this project to the proposed transferee. The rights and obligations of this project remain with the District prior to their final, legal transfer to the proposed transferee.

**APPENDIX**

1) XL Criteria

Since this pilot program is being administered under the Project XL program, the proposals must address the Project XL criteria:

1. Superior Environmental Performance

Projects that are chosen should be able to achieve environmental performance that is superior to what would have been achieved absent the XL project. EPA uses a two-part method of' determining whether an XL project will achieve superior environmental performance: (1) Develop a quantitative baseline estimate

of what would have happened to the environment absent the project and, then compare that baseline estimate against the project's anticipated environmental performance; and (2) Consider both quantitative and qualitative measures in determining if the anticipated environmental performance will produce a level of environmental performance superior to the baseline.

2. Cost Savings and Paperwork Reduction

The project should produce cost savings or economic opportunity, and/or result in a decrease in paperwork burden.

3. Stakeholder Support

The extent to which project proponents have sought and achieved the support of parties that have a stake in the environmental impacts of the project is an important factor. Stakeholders may include communities near the project, local or state governments, businesses, environmental and other public interest groups, or other similar entities.

4. Innovation/Multi-Media Pollution Prevention

EPA is looking for projects that test innovative strategies for achieving environmental results. These strategies may include processes, technologies, or management practices. Projects should embody a systematic approach to environmental protection that tests alternatives to several regulatory requirements and/or affects more than one environmental medium. EPA has a preference for protecting the environment by preventing the generation of pollution rather than by controlling pollution once it has been created. Pilot projects should reflect this preference.

5. Transferability

The pilots are intended to test new approaches that could conceivably be incorporated into the Agency's programs or in other industries, or other facilities in the same industry. EPA is therefore most interested in pilot projects that test new approaches that could one day be applied more broadly.

6. Feasibility

The project should be technically and administratively feasible and the project proponents must have the financial capability to carry it out.

7. Monitoring, Reporting and Evaluation

The project proponents should identify how to make information about the project, including performance data, available to stakeholders in a form that is easily understandable. Projects should have clear objectives and requirements that will be measurable in order to allow EPA and the public to evaluate the success of the project and enforce its terms. Also, the project sponsor should be clear about the time frame within which results will be achievable.

8. Shifting of Risk Burden

The project must be consistent with Executive Order 12898 on Environmental Justice. It must protect worker safety and ensure that no one is subjected to unjust or disproportionate environmental impacts.

These criteria are described in detail in the following Federal Register documents: 60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997.

2) NPDES Permit (Revised)