

technologies. A possible XL project may involve the use of green chemistry that would make a production process cleaner, and reduce the regulatory burden that would be required of the production facility.

Other Ideas Suggested by External Organizations that the Agency Considers Worthy of Further Exploration:

These ideas were proposed merely as topics that would need to be fleshed out. (in alphabetic order)

- Alternatives for reducing persistent toxins in the Great Lakes
- Conservation and sustainable use of biodiversity and ecosystem services (for example, pollination, natural pest control, natural water flow management, and natural filtering and breakdown processes of pollutants)
- Energy conservation
- Environmental consequences of urban sprawl
- Global warming/climate change
- Green spaces
- Habitat preservation
- Improved management of timberland
- Watershed management

#### (D) Key Elements of Good XL Proposals

A successful project sponsor must have a solid record of compliance and demonstrate that the proposed XL project meets the eight XL criteria, as discussed in previous **Federal Register** documents and summarized in the "Supplementary Information" section in the beginning of this document. The review process will be easier and EPA, States, and other stakeholders will be more receptive to proposals if they:

- √ Clearly lay out what is innovative about the approach to be tested and the potential benefits of applying the approach to other facilities, sectors, or communities, i.e. its transferability;
- √ Clearly identify the area(s) of flexibility needed in EPA regulations, policies, and/or procedures;
- √ Be as clear as possible about the benefits the project sponsor will derive from implementing the project, such as environmental improvements at the facility and in the community, worker health protection improvements, time-to-market savings and/ or paperwork reductions. EPA is also very interested in measurements of resources and cost savings.
- √ Avoid being focused primarily on the requirement the project sponsor wants to avoid, but focus instead on the new approach to be tested;
- √ Have early stakeholder support and a well-developed plan for facilitated stakeholder involvement;
- √ Plan your idea in pre-proposal discussions before the actual proposal is

formally submitted; pre-proposal discussions with EPA, States and other stakeholders go a long way toward reducing "transaction costs" (i.e. time and resources) in the selection and negotiation of projects;

√ Lay out a plan for how environmental baselines will be measured and superior environmental performance achieved. For more information on baselines, please refer to the **Federal Register** document (62 FR 19872) issued on April 23, 1997.

√ Propose a workable schedule for the development of a final project agreement and a plan for how the project will be managed.

EPA encourages potential project sponsors to talk early to EPA before submitting a formal proposal. This allows the Agency to help develop the proposal and to explain the process. The Agency recognizes that community project sponsors may require special assistance from EPA in developing proposals and any resulting projects. This assistance could include working with community project sponsors to help identify additional resources to support development and implementation of XL projects.

Proposals, in brief, will go through the following process: EPA will evaluate all proposals with input from relevant EPA and State offices to determine whether a proposal has the potential of meeting Project XL's set of criteria for facilities and/or communities, and whether it contains environmental, regulatory, and policy concepts worth testing in Project XL. If the Agency and the relevant State(s) determine that it is appropriate to proceed with proposal development, the project sponsor then leads a process involving all affected stakeholders to develop an agreement on the project.

#### Conclusion

Project XL presents a unique opportunity for private and public sector facilities, states, sectors, and local communities to design and test alternative approaches, while deriving substantial benefits for themselves and the communities around them. 27 facilities, sectors, states, and communities are already implementing or developing such innovations. EPA has integrated many "lessons learned" into its regulatory and policy-setting system. In addition, the Agency has learned how to process XL proposals with greater efficiency and efficacy. EPA's goal of implementing 50 XL pilot projects will provide the Agency with a range of innovations that can create a better system of protecting our environment and our health in the 21st century.

Dated: June 11, 1998.

**J. Charles Fox,**

*Associate Administrator, Office of Reinvention.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6113-6]

### Pretreatment Program Reinvention Pilot Projects under Project XL

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; Solicitation of Local Pilot Pretreatment Program Proposals under Project XL.

**SUMMARY:** Publicly Owned Treatment Works (POTWs) regulated under the National Pretreatment Program are required to identify industrial users, issue permits to these users, monitor industrial user activities through on-site sampling and inspections, and carry out other administrative functions involving extensive recordkeeping and reporting.

Many POTWs have mastered the programmatic aspects of their pretreatment programs, and a number of these POTWs feel that their programs should be measured against environmental results rather than strict adherence to procedural and administrative requirements. These POTWs have expressed an interest in being allowed to focus their resources on activities that they believe will provide greater environmental benefits than are achieved by complying with the current requirements.

The Project XL program, which is discussed in greater detail in another document in today's **Federal Register**, was implemented to provide the flexibility to conduct innovative pilot projects to develop and test "cleaner, cheaper and smarter" programmatic alternatives that could yield greater environmental results than those achieved under the current regulatory system. EPA is interested in exploring alternative environmental performance-based pretreatment programs on a pilot basis under the Project XL program.

Today, EPA is requesting that POTWs interested in pursuing a program based on environmental performance measures submit preliminary, one to two page proposals explaining what they would include in their Local Pilot Pretreatment Programs. These short proposals must include a clear description of the alternative program the POTW plans to implement, the environmental benefits to be gained by

the program, the regulatory requirements that need to be revised, and how program resources would be modified. POTWs that are interested in participating must submit their proposals to their State Pretreatment Program Coordinator, EPA Regional Pretreatment Program Coordinator, and the Director of EPA's Office of Wastewater Management. EPA will review the preliminary proposals and choose those that are most likely to achieve measurable improvements in environmental performance.

The number of proposals selected will be based on available Approval Authority resources for reviewing and modifying Approved Pretreatment Programs and coordinating pilot program implementation.

**EFFECTIVE DATES:** POTWs interested in participating in this Project XL solicitation have until September 21, 1998 to submit a preliminary proposal for consideration.

**ADDRESSES:** POTWs must submit formal proposals to Mr. Michael B. Cook, Director, Office of Wastewater Management (MC 4201), U. S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. Duplicate copies of your proposal should be sent, concurrently, to the appropriate EPA Regional Pretreatment Coordinator and the State Pretreatment Program Coordinator providing oversight of your pretreatment program. This **Federal Register** document has been placed on the Internet for review and downloading at the following location: "www.epa.gov/owm".

**FOR FURTHER INFORMATION CONTACT:** Patrick Bradley, U.S. Environmental Protection Agency, Office of Wastewater Management (4203), 401 M Street, S.W., Washington, DC 20460, telephone number (202) 260-6963.

## I. Introduction

### *In General, What is EPA Requesting?*

EPA is interested in exploring alternative environmental performance-based pretreatment programs on a pilot basis under EPA's Project XL program. The intent of this effort is to investigate ways of increasing the effectiveness of the pretreatment program and thus obtaining greater environmental benefit.

Today, EPA is requesting that interested POTWs submit preliminary proposals for implementing Local Pilot Pretreatment Programs. EPA will choose the proposals that are most likely to achieve measurable improvements in environmental performance. The number of proposals selected will be based on available approval authority resources for reviewing and modifying

approved pretreatment programs and coordinating pilot program implementation. EPA expects to implement no more than fifteen projects.

The process for reviewing and choosing acceptable pilot program candidates will include input from the POTW's State and EPA Regional Pretreatment Coordinators, as well as opportunity for public participation. After opportunity for public participation at the local level and review of a pilot by the selected POTW's State and EPA Regional Office, EPA Headquarters will revise 40 CFR part 403, if necessary, to allow the selected Local Pilot Pretreatment Programs to be tested, and then the POTW's NPDES permit will be modified to authorize the POTW to implement its pilot program instead of its current Approved POTW Pretreatment Program. States might first need to revise their own regulations or statutes to authorize the pilot program.

### *What Are the Current Pretreatment Program Requirements?*

The minimum requirements for an Approved POTW Pretreatment Program are currently found in 40 CFR 403.8(f). POTWs with Approved Pretreatment Programs must maintain adequate legal authority, identify industrial users, designate which are Significant Industrial Users under 40 CFR 403.3(t), and perform required monitoring, permitting and enforcement. Other sections of part 403 require POTWs with Approved Pretreatment Programs to sample and apply national standards to their industrial users. POTWs are also required to develop local limits in accordance with 40 CFR 403.5. An environmental performance-based pilot program would replace certain programmatic requirements of the POTW's Approved Pretreatment Program.

### *How Do the Current Requirements Relate to Environmental Objectives?*

As described in 40 CFR 403.2, the general pretreatment regulations promote three objectives:

- (a) To prevent the introduction of pollutants into POTWs which will interfere with the operation of POTWs, including interference with the use or disposal of municipal sludge;
- (b) To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and
- (c) To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

These objectives require local programs to be designed so they are preventative in nature, and therefore, any pilot program must also maintain this preventative approach. The specific requirements for an Approved POTW Pretreatment Program are intended to achieve these objectives. Individual pretreatment programs, however, are not routinely required to report on the achievement of environmental measures.

The 1991 National Pretreatment Program Report to Congress provides extensive data related to the sources and amounts of pollutants discharged to POTWs, the removal of pollutants by secondary treatment technology, and the general effectiveness of the pretreatment program. The 1991 Report did, however, point to a serious lack of comprehensive environmental data with which to fully assess the effectiveness of both the national and local pretreatment programs.

### *Why is EPA Considering Allowing POTW Local Pilot Pretreatment Programs at This Time?*

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 programs with their storm water monitoring programs. In general, these POTWs want 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.

The Project XL program was implemented to provide the flexibility to conduct innovative pilot projects. This current solicitation represents an attempt to spur innovation in the pretreatment program to increase environmental benefits and, in conjunction with the streamlining proposal, to determine if further streamlining of the program is needed,

and in what direction those future streamlining efforts should be directed.

## II. Stakeholder Comments

### *How Have Stakeholders Been Involved in the Development of This Idea?*

EPA has been working with stakeholders to learn how to direct the pretreatment program toward the achievement of environmental goals. In 1993, pursuant to a Cooperative Agreement with EPA, the Association of Metropolitan Sewage Agencies (AMSA) assembled a 16-member steering committee to explore environmental measures of performance of pretreatment programs. The committee consisted of federal and state approval authorities, local and state control authorities, industrial users, and environmental groups. This committee helped shape the original research and reviewed findings to identify appropriate measures of performance.

The Committee identified 18 measures for assessing the performance of a pretreatment program. Consistent with the committee's belief that an adequate program would need to be judged by environmental trends, compliance rates, and procedural or programmatic criteria, the measures were separated into the following three categories:

#### Measures of Trends in Pollutant Loadings and Concentrations

1. Trends in mass loadings of metal and other toxic compounds and nonconventional pollutants in POTW effluent; and comparisons to allowable levels in NPDES permits where such limits exist.

2. Trends in emissions of hazardous pollutants to the air, particularly for volatile pollutants from unit processes and metals from incineration.

3. Trends in mass loadings of metals and other toxic contaminants in POTW influent, as a total and where possible, divided into domestic, commercial, industrial, and storm water contributions to the total; and comparison to allowable loadings as calculated during the headworks analysis, where such an analysis is available.

4. Reductions in annual average metals levels in biosolids, with an indication of any trend towards or compliance with the most stringent nationwide biosolids standards.

#### Measures of Compliance With Requirements

5. Percent compliance with NPDES permit discharge requirements.

6. For each POTW, whether the POTW is failing Whole Effluent Toxicity (WET) tests due to industrial sources.

7. Percent compliance with non-pathogen biosolids quality limits for the management method currently used, with sites divided into categories based on applicable biosolids regulations.

8. Percent compliance at each Industrial User with categorical limits.

9. Percent compliance at each Industrial User with all permit limits.

10. Percent of Industrial users in compliance with reporting requirements.

11. For each control authority, the number and percent of Industrial Users in a significant noncompliance (SNC) for the current year that were also in SNC last year.

#### Procedural or Programmatic Measures

12. Whether an effective method is being used to prevent, detect, and remediate incidents of violations of the specific pretreatment prohibitions attributable to industrial or commercial sources (e.g., fire and explosion hazards).

13. Whether an effective procedure is being used to identify non-domestic users and to update the list of regulated users.

14. Number of sample events conducted by the control authority per significant industrial user (SIU) per year, and percent of all sample events that were conducted by the control authority.

15. Number of inspections per SIU per year.

16. Whether the control authority has site-specific, technically-based local limits, based on the most recent regulatory changes and latest NPDES permit requirements; or a technical rationale for the lack of such limits.

17. Whether the POTW or control authority has significant activities or accomplishments that demonstrate performance beyond traditional goals and standards.

18. Whether or not POTWs have an effective public involvement program in place.

EPA then funded a second multi-stakeholder peer review group assembled by AMSA to evaluate the extent to which POTWs were using or collecting data to support these measures. The evaluation consisted of site visits to five case study cities. During the site visits, the researchers collected data on the current status of performance measurement and investigated ways to redirect the pretreatment program using a broader array of environmental indicators. The final report (Case Studies in the

Application of Performance for POTW Pretreatment Programs, May 1997), presented "preliminary conclusions regarding the use of environmental indicators within the broader context of streamlining the pretreatment program to meet objectives of the Clean Water Act while better serving the needs of local communities and the nation as a whole."

One of the principal findings of the May 1997 report was a recommendation for "Pilot Programs" to investigate performance measures. The report recommended pilot programs as a means to phase-in and promote reinvention efforts at low risk. Specifically, the Report suggested:

Under such a strategy, only those wastewater utilities that could demonstrate readiness to manage locally directed programs would be eligible for a pilot. Once eligible, the exact dimensions of each local program would be negotiated with the public and the appropriate Approval Authority. Administrative orders or enforcement discretion could be used during the pilot to allow local priorities to shape local programs in place of strict compliance with national program regulations under 40 CFR part 403. Accountability would be sustained through agreed upon measures of performance.

The August 1996 WEF/AMSA Pretreatment Streamlining Workshop also recommended creating a fundamentally more innovative and results-oriented pretreatment program that focussed on environmental endpoints. The Workshop's final report recommends a national pretreatment program consisting of three different tiers or options for local programs. One option would be a performance approach that would provide POTWs with flexibility in administering various aspects of their pretreatment programs in exchange for evaluating the accomplishments of the programs based on a series of designated performance-based measures that had been agreed upon by all stakeholders.

Finally, AMSA hosted a 1997 stakeholder meeting in Chicago where more than 20 members of key stakeholder groups, including POTWs, federal and state regulators, and industrial users, discussed all of these previous efforts and portions of this proposal. The attendees at the meeting did not reach consensus on a methodology for addressing environmental performance measures, but one recommendation was to pursue a change to the regulations that would allow pilot programs to test some alternate approaches.

### III. Today's Request for Project Proposals

#### *What is EPA Requesting?*

EPA is requesting that POTWs that are interested in pursuing a program based on environmental performance measures submit preliminary, one to two page proposals explaining what they would include in their Local Pilot Pretreatment Programs. These short proposals must include a clear description of the alternative program the POTW plans to implement, the environmental benefits to be gained by the program, the regulatory requirements that need to be revised, and how resources will be modified. POTWs that are interested in participating must submit their preliminary proposals within 90 days of the publication date of this **Federal Register** Notice to their State Pretreatment Program Coordinator, EPA Regional Pretreatment Program Coordinator, and the Director of EPA's Office of Wastewater Management. EPA will then contact the POTWs that submitted acceptable proposals and request detailed proposals within 90 days which outline exactly how the POTWs plan to implement their Local Pilot Pretreatment Programs and how they address the Project XL criteria. These proposals will be reviewed by EPA.

EPA encourages interested POTWs to contact EPA early—via their Regional Pretreatment Coordinator or their Regional XL Coordinator or their State Pretreatment Coordinator—to express their interest in submitting a proposal. EPA stands ready to discuss pilot ideas or to clarify principles, expectations or guidance for the Pretreatment Pilot Program or Project XL.

The following sections outline what EPA believes should be the criteria for determining which POTWs may qualify for administering a Local Pilot Pretreatment Program, what would be an adequate Local Pilot Pretreatment Program, and what existing pretreatment program requirements would not have to be part of an approved Local Pilot Pretreatment Program. They also discuss application, approval, withdrawal and reporting requirements.

#### *How Would Local Pilot Pretreatment Programs be Selected?*

After consultation with the POTW's State, EPA Regional Office, and other Offices in EPA Headquarters, the Director of EPA's Office of Wastewater Management will select the pilot projects from the proposals that best meet EPA's criteria. If more than fifteen

(15) Local Pilot Pretreatment Programs meet the criteria generally, EPA will select the programs that are likely to achieve the greatest transferable environmental benefit.

Transferable environmental benefit means the methodology is such that other POTW programs may be likely to implement the method and also achieve increased environmental benefits. EPA will select a proposal for further consideration only if the POTW's State and EPA Regional Office agree to participate.

#### *Which POTWs May Apply To Run a Pilot Program?*

The pilot program is being limited to POTWs that have demonstrated that they have run successful Pretreatment Programs, have available significant amounts of environmental performance data (or demonstrated ability to collect the necessary data), and are most likely to achieve transferable environmental benefits greater than those achieved under the current requirements. EPA intends to apply the following criteria to determine which POTWs may be considered for a Local Pilot Pretreatment Program:

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.

#### *What Are the Project 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.

### *What Environmental Results Must a Local Pilot Pretreatment Program Achieve?*

The POTW's Local Pilot Pretreatment Program would have to commit the POTW to achieve environmental results consistent with the XL program's expectations. As detailed in the **Federal Register** document of April 23, 1997, "In order to test innovative approaches to reinvent environmental protection for the 21st Century, Project XL offers potential project sponsors and co-sponsors the opportunity to develop and implement alternative strategies that produce superior environmental performance, replace specific regulatory requirements, and promote greater accountability to stakeholders. The May 23, 1995, **Federal Register** document defining the XL program stated EPA's intent to approve only those projects that 'achieve superior environmental performance relative to what would have been achieved through compliance with otherwise applicable requirements.' This document further refines the definition of superior environmental performance to assist future applicants, stakeholders and those evaluating the program." The system uses a two tiered approach. The first tier establishes an environmental performance benchmark for an XL project. This quantifies current performance levels and sets a baseline against which the project's anticipated environmental performance can be compared. The project benchmark will be set at either the current actual environmental loadings (historical environmental data) or the future

allowable environmental loadings, whichever is more protective. Tier two is an examination of factors that lead EPA to judge that a project will produce truly superior environmental performance.

For local POTW Pretreatment Programs, Superior Environmental Performance may include:

(i) Reducing pollutant loadings to the environment or achieving some other environmental benefit beyond that currently achieved through the existing pretreatment program (including collecting environmental performance data and data related to environmental impacts in order to measure the environmental benefit. Such information would include data on pollutant loadings to the environment, ambient environmental conditions and measures of the impact of these conditions on the health of ecosystems. The data should be able to support decisions concerning the future use of pretreatment program resources),

(ii) Reducing or optimizing costs related to implementation of the pretreatment program with the savings used to attain environmental benefits elsewhere in the watershed in any media, and

(iii) Other environmental benefits gained by allowing pretreatment program flexibility.

EPA's ultimate objective is to gain information on how the pretreatment program might be better oriented towards the achievement of measures of environmental performance. This objective is consistent with the principles of the National Performance Review.

EPA's intent is to allow Local Pilot Pretreatment Programs to be administered by those POTWs that best further those objectives. Each pilot program's method of achieving the environmental benefit should be transferable so that other programs may be able to implement the method and also achieve increased environmental benefits.

Collecting environmental performance data alone would not be enough to qualify as an objective. The data collected must be used to benefit the environment. For example, the data collected could help POTWs apply enforcement and compliance assistance resources more effectively.

If the focus of the Local Pilot Program is to reduce the cost of administering the Approved POTW Pretreatment Program without reducing the local program's environmental effectiveness, the resources saved must be dedicated to some other environmental application. In this situation, the resources might be used to integrate the

Pretreatment Program with other local environmental protection programs such as storm water monitoring or collection system management or local pollution prevention initiatives. In all cases, the benefits of a trade-off of resources from existing pretreatment requirements to other activities will need to be quantified and tracked.

A Local Pilot Pretreatment Program could focus resources on program integration and then measure the environmental benefits of an integrated program. Environmental performance measures can foster increased integration of pretreatment programs with other local environmental programs and with broader environmental efforts, such as watershed or community-based environmental protection.

It is intended that Local Pilot Pretreatment Programs will provide clearer linkages between environmental goals and program implementation procedures. This will allow programs to identify the goals that are best for their specific situations and to design procedures to reach those goals.

To determine what the environmental focus should be, the POTW should conduct community outreach. Through a stakeholder dialogue, the POTW may gain additional perspective on what is important to the community and may help the POTW to make resource allocation decisions. Each pilot POTW would then set its own goals based upon input from the local community.

The POTW would then design a management program (the Local Pilot Pretreatment Program) to achieve the environmental goals. The alternate program would include specific measures to determine whether or not implementation procedures are achieving their desired results.

### *Which Existing Requirements Would not Have to be Part of Local Pilot Pretreatment Programs?*

Local Pilot Pretreatment Programs may not have to implement certain currently required pretreatment program elements if they are not necessary for the achievement of the POTW's environmental objectives. The resources saved from not implementing these program elements could then be redirected to other means of achieving and measuring environmental performance.

EPA proposes that a Local Pilot Pretreatment Program would still need to include adequate legal authority to identify and control industrial users, and the authority to take appropriate and necessary enforcement actions.

These authorities would then be supported by a set of procedures. The legal authority and procedures must be clearly explained in the POTW's proposal.

Specifically, the Local Pilot Pretreatment Programs would still be required to develop/maintain legal authority and ensure compliance with categorical pretreatment standards and local limits, including taking necessary enforcement actions. The POTW would be required, at a minimum, to identify industrial users that are subject to categorical standards, receive and review reports from the categorical users, and take enforcement action as appropriate based on the reports received. The Local Pilot Pretreatment Programs would also be required to develop and implement procedures to operate their programs such as permitting, inspection and monitoring, and technically-based local limits. However, the procedures would not necessarily have to include the prescriptive permitting or reporting requirements in 40 CFR 403.8(f) or 403.12. The POTW may not necessarily be expected to permit a specific subset of industrial users designated by the federal regulations, but instead would have the latitude to decide which industrial users need permits. The POTW would be expected to monitor (sample and inspect) industrial users, but would be able to decide how often to monitor the users. These procedures would likely involve modifying existing program procedures rather than developing new procedures.

Industrial users would continue to be subject to all currently applicable requirements; except that, as described above, a Local Pilot Pretreatment Program may alter the timing of certain reports and may consider certain industrial users that are subject to national categorical standards to no longer be SIUs.

#### *What Will Be the Duration of Local Pilot Pretreatment Programs?*

Local Pilot Pretreatment Programs may be approved to operate for one five-year period. Prior to the end five-year period (at least 180 days), the POTW may apply for a renewal or extension of the project period. If a POTW 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 CFR 403.18.

If the primary objectives of the proposal are not being met, the Approval Authority shall direct the POTW to discontinue implementing the Local Pilot Pretreatment Program and resume implementation of its previously approved pretreatment program. The Approval Authority will ensure that the POTW's NPDES permit includes a reopener clause with this requirement.

The results of the pilots, including recommendations in POTW pilot reports, will be used to determine the direction of future Pretreatment Program streamlining and/or reinvention.

#### *Will the Pilot Program POTW Be Required to Submit Periodic Progress reports?*

The POTW will be required to periodically report the progress of its pilot program. The POTW's periodic report would describe its Local Pilot Pretreatment Program activities and accomplishments, including activities and accomplishments of any participating agencies and public involvement. The report should 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 must also include the findings of the pilot. This report must 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 should also include recommendations concerning the implementation of the pretreatment program at the local level.

The minimum report requirements will be detailed in the POTW's NPDES permit. This requirement will be similar to the current requirement for the POTW 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.

#### *What Should a Proposal to Implement a Pilot Program Include?*

The POTW should discuss the pilot project with its State and EPA Regional Office early in the process of developing a proposal, and prior to submitting any proposal to EPA Office of Wastewater Management. This should save time for both the Approval Authority and the POTW.

A POTW seeking approval to implement a Local Pilot Program must first submit a preliminary, one to two page, written proposal to EPA Headquarters (Office of Wastewater Management—MC 4201) with copies to its Approval Authority and EPA Regional Office within 90 days of the publication of this document. These short proposals must include a clear description of the alternative program the POTW plans to implement, the environmental benefits to be gained by the program, the regulatory requirements that will be revised, and how resources will be modified. The request should be mailed to U.S. EPA, Office of Wastewater Management (MC 4201), 401 M Street, S.W., Washington, DC 20460. Telephone inquiries may be directed to Patrick Bradley at (202) 260-6963.

If EPA determines the POTW's preliminary proposal meets the criteria explained in this document, EPA will request that the POTW submit a more detailed proposal in 90 days. The detailed proposal shall include a complete draft of the POTW's proposed Local Pilot Pretreatment Program, including a description of the specific measures to determine whether or not the alternative management procedures are achieving their desired results. The proposal shall address all necessary modifications to the procedures, legal authority and resources of the POTW's existing Approved Pretreatment Program. It must also contain commitments from the appropriate municipal officials that the POTW will have the necessary legal authority, procedures, personnel and resources to implement the pilot program. The proposal should include a copy (or drafts) of any statutes, ordinances, regulations, agreements, or other authorities that the POTW will rely upon for its administration of the Local Pilot Pretreatment Program.

The POTW's draft pilot program should address all of the major pretreatment program elements. It should document how the POTW will continue to develop, implement, and enforce its Local Pilot Pretreatment Program. For example, it should identify the manner in which Pretreatment Standards will be applied to individual Industrial Users (e.g., by order, permit, ordinance, etc.). It should also identify how the POTW intends to ensure compliance with Pretreatment Standards (including categorical Pretreatment Standards) and Requirements, and to enforce them in the event of noncompliance by Industrial Users. The detailed proposal should also address how the Local

Pretreatment Pilot Program would meet the eight Project XL criteria discussed earlier in this notice.

EPA believes stakeholder involvement in developing Local Pilot Pretreatment Programs is crucial to the success of the programs. Therefore, as part of the application, the POTW must clearly explain its process for involving stakeholders in the design of the pilot program. This process should be based upon the guidance set out in the April 23, 1997, **Federal Register** document. The support of parties that have a stake in the program is very important.

Once EPA has accepted a candidate based on its detailed proposal, the POTW, EPA, the State and local stakeholders should finalize a Final Project Agreement (FPA). The FPA is a non-binding agreement that enumerates the conditions of the project. (In order to expedite this process, EPA will develop a FPA template for these projects that will contain the elements that are anticipated to be common among these projects and shall make this available to the candidates.) The actual regulatory flexibility will be granted by modifying 40 CFR part 403 to allow these specific POTWs to operate Local Pilot Pretreatment Programs.

After an opportunity for public participation at the local level and the development of the Final Project Agreement, a selected POTW's Approval Authority would approve or disapprove the pilot program using the procedures in 40 CFR 403.18. The POTW may implement its Local Pilot Pretreatment Program once its NPDES permit has been modified to incorporate the program as an enforceable permit element.

As with any XL Project, EPA intends to work cooperatively with the POTWs that submit applications for Local Pilot Pretreatment Programs to develop and fine tune the applications. Applicants must recognize that EPA retains the ultimate authority to select projects based on a qualitative consideration of the criteria described earlier. Since these are pilot projects and there are a limited number of pilots that can be approved, projects that satisfy many or all of the criteria may not be chosen for Local Pilot Pretreatment Programs status. The decision of which projects will be selected will be based on an Agency decision about which projects are expected to best serve the objectives of this program. No person is required to submit a proposal or obtain approval as a condition of commencing or continuing a regulated activity. Accordingly, there will be no formal administrative review available for proposals that are not selected, nor does EPA believe there will be a right to judicial review.

Dated: June 20, 1998.  
**Michael B. Cook**,  
*Director, Office of Wastewater Management.*  
 [FR Doc. 98-16399 Filed 6-22-98; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[PF-813; FRL-5795-1]

**Notice of Filing of Pesticide Petitions**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions

proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

**DATES:** Comments, identified by the docket control number PF-813, must be received on or before July 23, 1998.

**ADDRESSES:** By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Mary Waller .....	Rm. 247, CM #2, 703-308-9354, e-mail:waller.mary@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
James Tompkins .....	Rm. 239, CM #2, 703-305-5687, e-mail: tompkins.james@epamail.epa.gov.	Do.
Stephanie Willett .....	Rm. 202, CM #2, 703-305-5419, e-mail:willett.stephanie@epamail.epa.gov.	

**SUPPLEMENTARY INFORMATION:** EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the

submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF-813] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not

include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:  
 opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the