

NACWA's Comments on EPA's IU Inspection & Sampling Manual

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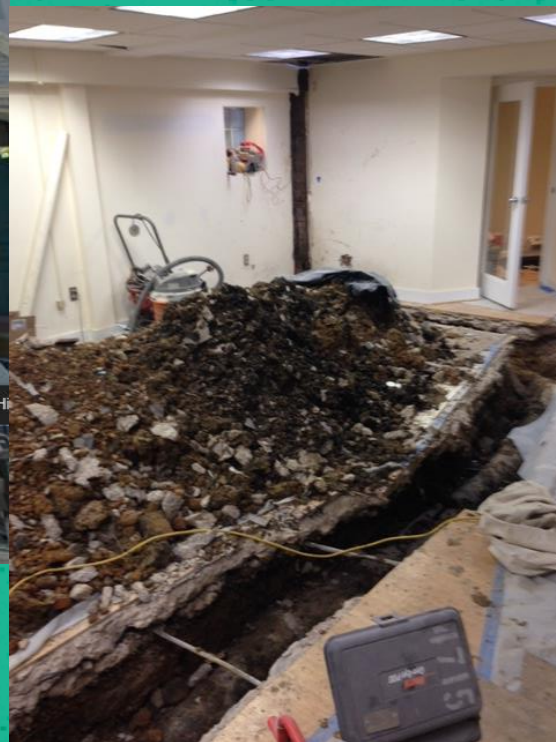
National Association of Clean Water Agencies

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NACWA



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Industrial User Inspection and Sampling Manual

- “The information contained in this guidance will serve the experienced inspector as a reference, while new inspection personnel will find it useful for learning how to conduct inspections and sampling at significant industrial users (SIUs) and other regulated industrial users.”
- “This manual is also intended to assist the POTW’s legal counsel and laboratory personnel as a reference for the legal and technical aspects of pretreatment inspections and sampling activities.”



Chapter 1: Introduction

- One of the objectives of the POTW's compliance monitoring program: "provide a presence in the field so that industrial users understand that the POTW is serious about its regulatory oversight duties."
- "Industrial user sampling and inspections are the cornerstone of the POTW's pretreatment compliance and enforcement program... the knowledge that an inspection could occur unannounced encourages industrial plant managers to keep their operations in compliance."



Chapter 2: Inspecting Industrial User Facilities

General inspection topics:

- Developing & maintaining an industrial user inventory
- Criteria to be used in setting the frequency of inspections & sampling activities
- Types of inspections that can be performed by the POTW
- How to handle confidential business information
- General responsibilities of POTW inspector
- Documentation of findings



Chapter 2: Inspecting Industrial User Facilities

Specific inspection activities:

- Pre-inspection activities
- On-site activities
- Follow-up activities

Inspection checklist included – can be used as the basis for the inspection and report



Chapter 3: Sampling Industrial Users

Planning & conducting sampling activities at IUs:

- Frequency of sampling
- Pollutants to be monitored
- Analytical methods for samples
- Sampling & Quality Assurance Plan
- Quality assurance & quality control procedures
- Pre-sampling & on-site sampling activities
- Flow measurement
- Compliance issues related to sampling & analysis



Chapter 3: Sampling Industrial Users

Objectives of sampling:

- Support determination of impact of industrial wastes on the POTW's collection & treatment systems
- Evaluate compliance by IUs with all applicable pretreatment standards & requirements
- Verify quality of self-monitoring data & accuracy of reporting
- Support enforcement actions



Chapter 4: Safety Considerations During Inspection & Sampling

Inspectors must:

- Be aware of potential dangers
 - Physical hazards
 - Atmospheric hazards
- Account for these dangers in inspection & sampling plans
- Have a policy that extreme caution is taken to avoid threats to health & safety

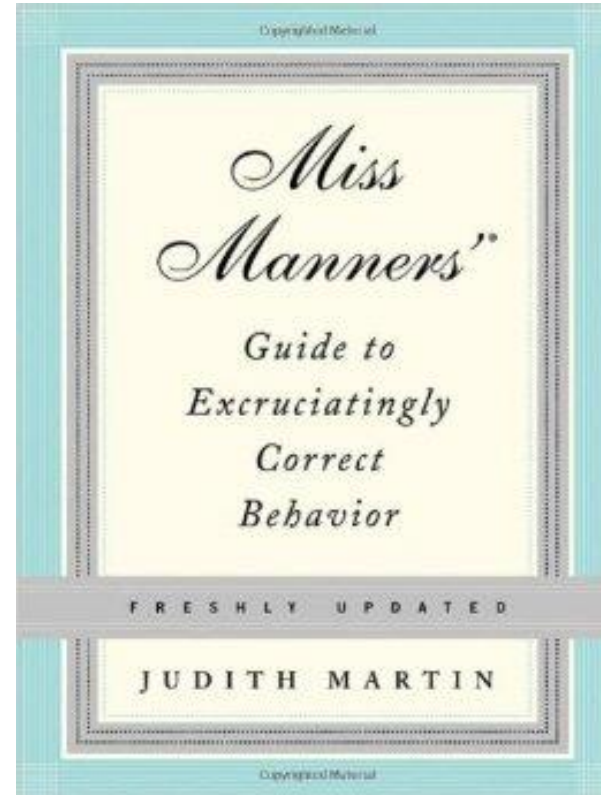


Other Information

- Chapter 5: Additional Resources
- Appendices:
 - General IU Inspection Questions
 - Industry Specific Questions
 - General Operations & Maintenance Questions
 - Hazards Associated with Specific Industrial Categories
- Definitions and Acronyms



EPA Manual, or....?



Mind Your Manners!

- “In dealing with industry representatives, inspectors must be tactful, courteous, and diplomatic.”
- “A firm but responsive attitude should encourage cooperation...”
- “Inspectors should avoid any negative comments regarding any product, manufacturer, or person...”
- “Problems should be discussed cordially and professionally.”



No showing emotions

- “The language used in recording the inspection information should be objective, factual, and free of personal feelings.”



No Quid Pro Quo

- “Inspectors should not accept gifts, favors, lunches, or any other benefits under any circumstances.”



Keep Calm and Inspect On

- “Officials at the regulated facility must not be subjected to any form of intimidation or threats for their failure to allow an inspector entry to the premises.”
- “In any instance where there is a misunderstanding or conflict due to the inspection, the inspector must avoid threats, inflammatory discussions, or other unprofessional language.”



Watch your back...

- “The inspector should be aware of their personal safety during such confrontations and avoid actions that may enrage an individual who is irrational.”



Evidence Gathering

- “Sample taking and analysis, and the collection of other information shall be performed with sufficient care to produce evidence which is admissible in enforcement proceedings or judicial actions.”
- “Documentation maintained by the inspector (hard copy and electronic) may be used as evidence in a court of law.”



As Jay knows...

- “In 2004, the *James M. Knott, Sr., and Riverdale Mills Corporation (“Riverdale”) v Justin Pimpare and Daniel Granz* case was decided by the U.S. Court of Appeals for the First Circuit.”
- “The First Circuit Court ruled in EPA’s favor, stating that the sampled wastewater, whether it was on private property or not, is irretrievably flowing into the public sewer.”
- “The Court said that the law did not clearly establish a Fourth Amendment right to expect privacy in industrial wastewater on its way to a public sewer.”



Know What You are Signing

- “Often, facility sign-in sheets include a clause that prohibits reporting of information seen in the facility, in which case the inspector should not sign the form.”
- “This statement is not always on the same page that the inspector is asked to sign, and the inspector should inquire as to whether the statement is embedded elsewhere in the sign-in documents.”



NACWA Comments: Cyanide Testing

- Information is out of date and incorrect
- Recommend removing discussion of preservation details and simply refer to ASTM methods.



NACWA Comments: Split Samples

- Recommend removing language suggesting that split sampling is acceptable
- Replace with suggestion for side-by-side sampling
- IUs expect split samples to match exactly
- Variation in side-by-side samples is easier to explain



NACWA Comments: Sample Time

A composite wastewater sample becomes a sample when the ~~first~~ **last** aliquot is collected. **A grab sample holding time begins when the sample is collected.**



NACWA Comments: Exceeding Scope

1.2 Purposes and Objectives for Inspecting and Sampling Industrial Users

- Consider potential compliance issues with other statutes or regulations, e.g., Occupational Safety and Health Administration (OSHA), Resource Conservation and Recovery Act (RCRA), etc.
- Provide a basis for establishing the sampling requirements of the industrial user (above the federal minimums).



NACWA Comments: Clarify Secure Facilities

Access to ~~federal~~ facilities requiring security clearances. Certain federal, **state, local, and private** facilities, including those with military, intelligence, **public safety (airports, transportation terminals)** or nuclear-related activities may have special security or access requirements.



NACWA Comments: Laundry Questions

Add these questions:

- Is drycleaning performed at this facility (SIC 7216)?
- If so, what type of solvent is used? Tetrachloroethene (perc), hydrocarbon, silicone, Stoddard
- If perc, how is separator wastewater managed?
- Copy of disposal records?
- Receipts for new perc purchases?
- Are new and used perc containers stored near floor drains?



NACWA Comments

Should vs. May

- POTWs ~~should~~ **may** also develop an inspection plan (discussed below) to establish the criteria under which the POTW will conduct SIU inspections at a frequency greater than the once per year minimum.
- In addition, the POTW inspector ~~should~~ **may** develop a Job Hazard Analysis and a safety plan with consideration of the IUs that would be inspected, and follow the safety procedures established by the industrial user that is being inspected.



NACWA Comments: Should vs. May

- In order to ensure the quality of POTW sampling, the POTW ~~should~~ **may** develop a general plan that lays out all of its procedures for conducting sampling to meet the requirements under its pretreatment program.



NACWA Comments: SOPs vs. Protocols

- “POTWs should develop and implement standard operating procedures (SOP) for conducting inspections.”
- Recommend all language specifically stating SOPs, and instead recommend POTWs develop “consistent inspection protocols.” This will allow flexibility to the POTW to develop site-specific inspection procedures for various IU types.



NACWA Comments: Chemical Labeling/Storage

- “The inspector should also determine whether the industrial user is properly labeling its chemicals to ensure that incompatible chemicals that may be discharged to the sewer are not stored together.”
- The inspector should walk around all chemical storage areas to identify all chemicals stored onsite and to note whether they are stored properly.
- Recommend revising or removing – impossible for some facilities.



NACWA Comments: pH

- “Excursions under pH 5.0 standard units are pretreatment standard violations (40 CFR 403.5(b)(2)).”
- Misquote – need to add “unless facility is designed to handle low pH.”



NACWA Comments: Other Regulatory Requirements

Forms to which other government agencies require signature before entry. For example, a facility might be regulated by USDA, FDA, or other fed agencies. The forms aren't necessarily confidential forms, but rather like "I agree to wear hair nets" or "I agree not spit on the gummy bear vitamins."



EPA Recommendation

It is important that the inspector keep current on applicable regulations. Sources of information for the inspector include:

- Attending conferences and workshops.



2017 NACWA Pretreatment & Pollution Prevention Workshop

May 16: Optional Training Day

May 17-19: Workshop

San Antonio, Texas



Thank you!

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