

## **National Nitrate Initiative Compliance Assistance Outreach Survey**

### **Executive Summary**

This survey was commissioned by the Environmental Protection Agency, Region 3, Office of Enforcement, Compliance and Environmental Justice to determine the effectiveness of compliance outreach materials and the influence of the self audit policy within the metal finishers sector. This survey is structured around the National Nitrate Compliance Initiative which recognizes the production of coincidentally manufactured chemicals and requires the inclusion of these chemicals within a facility's Toxic Release Inventory. The initiative was introduced in April 2000, when EPA issued Show Cause letters to facilities thought to be in violation of the Emergency Planning and Community Right to Know Act (EPCRA), Section 313, for failing to report nitrate compounds. Included in the original mailing was a description as to why EPA believed the facility to be non-compliant and a variety of settlement options for the facility to adopt. Facilities were given a deadline of July 14, 2000 to respond to these options or be subject to further EPA investigation.

This survey was administered to 18 facilities in the metal finishing sector within the states of Region 3. All facilities surveyed received the National Nitrate Compliance mailing. Results from the survey were used as a follow up method to determine the effectiveness of outreach efforts, compliance assistance materials and the self audit policy. Highlights from the survey can be found below:

#### **Changes in Awareness**

- 77.7% of Participants surveys stated that the National Nitrate Initiative was the first time they became aware of the potential for Nitrate Compound Violations and the first time they became aware of the Audit Policy Penalty Reduction for Self Disclosing option.
- 88.8% of participants have shared information gained from outreach with others in their organization.

#### **Behavioral Changes**

- As a result of the initiative, over half of the participants surveyed indicated that changes have been made or are planing to be made which increase compliance. These changes include conducting a self audit, creating an internal system to meet reporting requirements and implementing process, operational and mechanical changes to reduce the overall amount of nitrates produced.

- 17.6% of participants indicated that they had made process changes as a result of the initiative to reduce the overall amount of nitrates produced, 11.8% have implemented material changes, 5.9% have incorporated material, operating and process changes, 11.8% report that no changes have been made as a direct result of the initiative and 24% indicated that the changes made fall under the “other” category and this represents research for alternatives and substitutions..
- When asked if the mailing provided enough understandable information, 72.2% responded that they found the mailing provided enough information for compliance with the initiative while 94.4% indicated that the mailing provided enough information for them to use the audit policy as an option.
- A number of participants stated that, as result of this initiative, multiple representatives from a facility will be sent to workshops so a greater understanding of regulation change and compliance assistance can be delivered back to the facility.

#### Participant Comments

- One of the main comments throughout the survey was that although facilities recognized the need for the Nitrate Initiative, they felt that the initiative was implemented about three years too late. And further, as coincidentally manufactured nitrates were a mistake that had been overlooked for years, EPA needs to recognize that it was not something that could be fixed with a crash course on reporting requirements.
- A majority of facilities also stated that they would like to see increased communication between EPA and the sector. Facilities understand the need for corrective action but feel that compliance assistance activities are closely linked to the potential for inspections and penalties.
- A majority of facilities commented that the flat rate penalty served as a big incentive for compliance. Facilities were aware that the initiative was not voluntary, and favored the flat rate method. With this option, being non compliant provided no economic benefit to facilities..
- In addition to increasing communications between EPA and the sector, suggestions were made to create outreach and informational sources that reflect requirements and regulation changes. Facilities do not see a need to actively track regulation changes, and as a result, they may review regulations every few years rather than on a yearly basis. A good tool for compliance would be the creation of a newsletter that highlights major regulation changes within sectors.
- Facilities also stated that the initiative created confusion in many areas. Most specifically, facilities found it difficult to interpret EPA’s definition of Coincidentally Manufactured as the phrase was not supported by a set point or definition when nitrates can be declared “coincidentally manufactured.”