

Sewer Availability Charge

Procedure Manual



Table of Contents

TELEPHONE CONTACT LIST FOR SAC QUESTIONS	2
DESCRIPTION OF THE SAC SYSTEM	3
HISTORY OF THE SAC PROGRAM	4
RESIDENTIAL AND COMMERCIAL SAC	5
INITIAL DETERMINATIONS (NEW CONSTRUCTION OR INITIAL CONNECTION)	5
ONGOING DETERMINATIONS (ADDITIONS/ REMODELING).....	6
SAC CREDITS.....	6
DEMOLITIONS.....	7
RULES GOVERNING THE USE OF CREDITS.....	7
INDUSTRIAL SAC	8
DEFINITION OF INDUSTRIAL USER.....	8
SAC DETERMINATION FOR INDUSTRIAL USERS.....	8
THREE YEAR REVIEW.....	8
SAC CREDITS	9
EXHIBIT A: GRANDPARENT VALUES FOR INDUSTRIAL USERS	11
DEFINITIONS	12

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- SAC Audit Questions
- Reporting procedures
- Use of forms
- Ordering more forms and manuals
- General SAC policies and procedures

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Municipal Services

- Determinations (Commercial and Industrial)
- SAC Criteria

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Industrial Waste

- Industrial Flow
- Leachate (and contaminated groundwater)

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The Service Availability Charge or SAC charge is similar to fees used by many wastewater utilities and municipalities. Generically, they are known as "impact" or "connection" fees. Since 1991, a SAC fee has been levied by the City of Buffalo (COB) for new connections or increased volume to the Buffalo Disposal System (BDS).

One SAC unit equals 164 gallons of maximum potential daily wastewater flow volume. Single-family houses, townhouses, duplex units, and most apartments each equal one SAC unit per dwelling unit. Commercial buildings are assessed SAC units based on maximum potential daily wastewater flow value. Industrial buildings are assessed SAC units based on maximum normal daily wastewater flow volume for process areas and maximum potential flow volume for commercial areas.

The COB is a provider of sewage services in the SAC system. COB collects SAC fees from property owners. Generally, COB issues the permits (building permits or plumbing permits) which indicate that development or redevelopment is occurring and that the demand for sewage, water and electric services are likely to change. In turn, the change in demand triggers

a SAC determination or redetermination. COB makes all industrial determinations, residential and commercial decisions.

The SAC revenue collected by COB is used to finance the reserved capacity portion of the system. Capital improvement costs are initially financed by debt and involve the building of current capacity as well as excess, or reserve capacity. SAC revenue finances the reserved capacity share of debt service annually, also called the annual SAC requirement. The remaining portion representing used-capacity is paid by the citizens of Buffalo through the monthly sewer service billings.

SAC revenue is held in the SAC Reserve Fund until utilized for the annual SAC requirement. The balance in the fund fluctuates from year to year depending on whether current revenue plus interest earned was more or less than the annual SAC requirement. The per unit Service Availability Charge for each calendar year is determined and approved by the Council in conjunction with the budget process. The rate for subsequent years shall be subject to review and is dependent on factors including the annual SAC requirement and the forecasted number of SAC units to be collected.

A SAC fee has been levied by COB since 1991. It was not part of the original rate structure. COB must provide service to a rapidly growing population and provide sewer service around Buffalo's lakes. COB struggles to keep up with rapid growth. Treatment plants can cause serious water quality problems in the lakes and rivers, which receive their effluent.

Heavy capital costs were inevitable, as the COB needed to expand and improve treatment and collection capacity for the City, to serve a population, which grew 39% in the 70s and 50% in the 80s.

The question facing the city in the early days was how to pay for the share of capital projects reserved for future users. Then as now, the "reserved" share represents excess capacity built into the current capital projects, so that treatment

plants and interceptors provide capacity not only for today's population but for the population growth expected over the next 20 years.

The practice of building in reserved capacity is based upon experience and economy. The physical sites of sewer pipes and treatment plants seldom change, so that major land acquisitions occur only once. Further, economies of scale in construction make it more cost effective to provide some excess or reserved capacity in these facilities at the time major construction occurs, rather than to make small, frequent expansions in capacity.

There have been court challenges to SAC in other communities. In a District Court ruling, later upheld by the Minnesota Supreme Court, SAC systems were found consistent with state law.

INITIAL DETERMINATIONS (NEW CONSTRUCTION OR INITIAL CONNECTION)

The computation of SAC units for a given property is referred to as a determination. Determinations are generally triggered by building or plumbing permits. Examples include the construction of a house, a house connecting to sewer for the first time, or the construction of an office building.

RESIDENTIAL

The following types of residential housing each comprise one SAC unit per dwelling unit:

- **Single family houses:** A single-dwelling unit.
- **Townhouses:** A multi-dwelling with potential for laundry facilities included in each unit.
- **Duplex units, Apartments, and Condominiums:**

Residential properties are eligible for certain discounts, as described below.

Apartment Discount

Apartments are charged 1 SAC per living-unit. When it comes to apartments with a minimum of 4 living-units, individual living-units may qualify for a 15% discount if the following condition is met:

- There is no plumbing for laundry facilities, garbage disposals or for dishwashers in said living-unit.

Application for the reduction must be made to the COB. The 15% reduction is in the base fee.

Publicly-Assisted Housing Discount

When it comes to publicly-assisted housing buildings with a minimum of 4 living-units, individual living-units may qualify for a 25% discount if the following conditions are met:

- There is no plumbing for laundry facilities, garbage disposals or for dishwashers in said living-unit.
- The housing is owned by a community or are publicly subsidized, low-income units (TIF, for example, or any other kind of tax credit).

Application for the reduction must be made to the COB. The 25% reduction is in the base fee.

COMMERCIAL

A commercial user of the BDS is defined as any user that is not a residence and that discharges no wastewater from an industrial process.

There is a minimum charge of one (1) SAC unit for each new building. Likewise, there is a minimum of one (1) SAC unit credit for each building demolished provided that it was connected to a central sanitary sewer. Individual businesses occupying the same building are not subject to the minimum charge of one (1) SAC unit.

The SAC determination for a multipurpose room or area in a building will be based upon most wastewater flow. Citizens should contact COB for assistance in SAC or for clarification of any SAC determination.

ONGOING DETERMINATIONS (ADDITIONS/REMODELING)

Anytime there is a change in use or change in sewer demand, whether or not a demolition is involved, a SAC determination must take place. Sometimes, this is referred to as a redetermination; simply meaning this is not the first SAC determination to take place on the site. Most redeterminations are triggered by city issued building or plumbing permits. For example, a redetermination is necessary when the use of the property has changed (from retail to restaurant), or when a physical change in the facility occurs (addition, or internal remodeling). Over the years, some changes in use and/or physical changes that would have resulted in a higher SAC determination have occurred without a SAC redetermination. In most cases this means there would have been additional SAC due which was not collected. These cases are generally found during the periodic audits performed by the Council, or when a subsequent change on the site has occurred.

To rectify these situations, the Council requires payment of any SAC not collected, for whatever reason, if the SAC determination changes within the past seven (7) years. If the SAC should have been collected more than seven (7) years ago, and the entity has a proven record of acting in good faith, SAC will not be collected. However, when the next change in use occurs on the site, credit will not be allowed for SAC not paid (see Credits Example 2a).

RESIDENTIAL

Generally, residential changes occur in conjunction with a demolition. For example, one house is demolished, and another house is built. More explanation of demolitions and credits are located in the Credit section.

An example of the need for a redetermination without a demolition is the division of a large house into two dwelling units. The SAC redetermination should be triggered by the building permit issued for the remodeling. At that time, the new determination is made and the additional amount of SAC due is remitted to COB on the building permit.

COMMERCIAL

An example of an instance requiring a redetermination on a commercial site is the addition of new tenants or a change of tenants in a strip mall. As tenants occupy the empty space, or as tenants change, the SAC assignment changes. A redetermination is required with each and every change.

SAC CREDITS

Credit for SAC previously paid on a site is allowed when there is a new use established on a property. The credit is stated in units and is used to offset the SAC unit determination of the new use. The purpose of SAC credits is to avoid double payment of SAC on a specific parcel of land. For the purpose of the SAC credit determination, SAC paid includes the total number of SAC units paid on the property as well as SAC grandparented into the system in 1991.

SAC grandparented into the systems refers to entities that never paid SAC because they were in existence and connected to sewer at the time the SAC program was adopted in 1991. The determination for SAC grandparented into the system is done using the current COB established criteria for SAC charges based on the structure as it existed in 1991.

A minimum of one SAC credit will be allowed by simply proving the building existed in 1991 and was connected to sewer. Records such as architectural floor plans, water records, and sometimes even photographs can be used to

make the determination of SAC grandparented into the system. COB will verify and approve all grandparent determinations.

The total SAC credit for a property is equal to the number of SAC units grandparented into the system plus the number of SAC units actually paid since 1991. Or, if the structure were not in existence in 1991, the total SAC credit would be the total SAC units paid.

A second method of calculating the credit determination is simply to make a determination based on the current structure using COB established criteria for SAC charges. Records of actual SAC paid and/or grandparented into the system must then be checked for the determination to be complete. This double check is necessary because the two methods of determination may provide different SAC credit determinations. It is possible that previous SAC charges or credits were not handled correctly. If this occurs, the SAC grandparented into the system plus SAC actually paid will take precedence over the SAC determination based on the current structure.

Example 1: A house (single family dwelling) was built and connected to sewer prior to 1991. In a credit situation the SAC is considered paid (one unit).

Example 2: A restaurant was in existence in 1991 (10 SAC units), and in 1995 this restaurant paid five (5) units of SAC for an expansion. Credit would be allowed for a total of 15 SAC units. This is the same determination that would be made to collect SAC on a restaurant seating equal to 15 SAC units.

Example 2a: Suppose in the above example the expansion was somehow completed without the payment of SAC. A determination based solely on COB criteria would indicate 15 SAC credits were due. However, COB would allow only 10 SAC credits because the additional five (5) SAC units were not paid at the time of expansion.

DEMOLITIONS

A demolition is when a structure or building is destroyed. SAC credit will be allowed at the time the new use is established for SAC grandparented into the system and/or paid.

COB will verify and approve all demolition credit determinations after they are submitted on the appropriate report.

RULES GOVERNING THE USE OF CREDITS

- *SAC credits can only be used when there is a new use established on the property generally evidenced by a building permit. Credits cannot be taken at the time of demolition or at the time a business shuts down.*

Example 3: If a demolition occurs in 1995, and the new use is established in 1999, the credits cannot be used until 1999-to offset the 1999 building permit.

- *Once the new use is established, any credits grandparented into the SAC system and SAC units paid are used to offset the SAC determination of the new use.*

Example 3a: In example 3 above, if the original structure demolished (1995) was 10 SAC units, and the new use is 15 SAC units, a net SAC of five (5) units is due to COB.

Example 3b: In example 3 above, if the original structure demolished (1995) was 10 SAC units, and the new use is 3 SAC units, a new credit balance of seven (7) units is due to the entity.

- *If the new use exceeds the old use, in SAC units, the number of units must be remitted at the current SAC rate.*

DEFINITION OF INDUSTRIAL USER

'Industrial User' has a particular, special definition for SAC purposes. It does not include all industries. 'Industrial User' for SAC purposes is an industry producing wastewater from an industrial process; it is an industry which holds an industrial discharge permit or is subject to being permitted. Many businesses commonly referred to as industries are not 'industries' for SAC purposes and would be subject to commercial criteria for SAC purposes. Because the definition of industrial user for the purpose of SAC is somewhat ambiguous, COB will make final decision on whether an 'industry' will follow industrial criteria for SAC purposes.

LEACHATE

Leachate is defined as water which has originated from within or has percolated through refuse or through the protective covering of a landfill. When leachate is discharged to the BDS from a sewer connected site, the user is subject to SAC charges based on industrial criteria. COB will make the SAC determination.

SAC DETERMINATION FOR INDUSTRIAL USERS

SAC is determined on a different basis for industrial users, compared to commercial and residential users. For commercial and residential users, a SAC determination is based on the estimated maximum potential daily volume of wastewater capable of being discharged from the facility. The SAC determination is made either by a community official (e.g., a building inspector or plumbing inspector) or by COB staff.

In contract, industrial SAC determinations are derived by adding two components: commercial criteria for non-process areas and the sum of domestic waste plus the normal maximum industrial process wastewater for process areas. Industrial users must prepare an industrial SAC application whenever a determination is needed. The application is routed through COB who makes all industrial SAC determinations.

THREE YEAR REVIEW

Because industrial determinations involve both commercial and industrial criteria, redeterminations can be triggered by changes in either the commercial or industry components. Similar to commercial, building permits or changes in use can trigger redeterminations subject to additional SAC charges or SAC credits. In addition, industrial users may increase wastewater flow without remodeling, simply by expanding the workday or the rate of activity. In these cases, no building or plumbing permit need be issued, however, a redetermination is needed.

Changes in wastewater flow as mentioned above have historically gone without SAC redeterminations because there was no trigger mechanism. As a result, some industrial users are discharging wastewater to the BDS in volumes greater than that represented by their payment of SAC units, and/or pre-1991 SAC units, "grand parented" into the BDS. SAC grand parented into the system refers to entities connected to the central sewer that never paid SAC because they were in existence at the time the SAC program was adopted in 1991. The determination for SAC grand parented into the

system is based on the wastewater “flow” (less

Determining the number of SAC units grand parented into the SAC system is more complex for industrial users.

Example 4: If an industrial user were in existence in 1991, discharging at 20 SAC units and has not paid any SAC to date, the total SAC credit allowed would be 20 units.

To rectify situations where wastewater flow has increased without the collection of SAC, a new cutoff date for establishing SAC units for industrial users has been established. This new date was labeled the “baseline” SAC date. Industrial users of the BDS will not be assessed for SAC not paid from adding flow volume prior to the baseline date. Users would neither be liable nor allowed SAC credit for additional flow volume which has not been grand parented into the system or paid.

COB now monitors industrial wastewater flows in connection with the City’s State industrial permit renewal. The permit process provides a reliable trigger, every three years, for SAC redetermination. The process begins one year prior to permit expiration. If the review reveals an increase in wastewater volume for which SAC units have not been paid, the user will be given the option to reduce flow within the year to avoid purchasing additional SAC. If proof of longer term wastewater flow reduction is provided, no additional SAC will be incurred, and the permit renewal process will continue. COB may monitor flow to ensure it was not a temporary reduction to avoid payment of SAC.

If wastewater flow is not reduced, COB will determine the number of additional units which must be paid prior to permit renewal. Records for wastewater volumes and number of SAC units paid will be maintained on COB databases.

cooling water) that was in existence in 1991.

Example 4a: Suppose in Example 4 that industrial flow had increased by four (4) units as of 1991. (This is four (4) units more than SAC grand parented or paid.) Because industrial flow the new procedures monitor going forward, the additional four (4) units will not be collected. Then in 1994 the total SAC determination was three (3) units higher than the baseline, and the industry paid for three (3) SAC units. If in 1999 there was a new use established, credit would be allowed for 23 SAC units. (20 grand parented in, plus 3 paid)

SAC CREDITS

Credit for SAC previously paid on a site is allowed when there is a new use established on a property. The credit is stated in units and is used to offset the SAC determination of the new use. The purpose of SAC credits is to avoid double payment of SAC on a specific parcel of land. For the purpose of the SAC credit determinations, SAC paid includes the total number of SAC units paid on the property as well as SAC grand parented (excluding cooling water) into the system in 1991.

RULES GOVERNING THE USE OF CREDITS

The rules governing the use of SAC credits for industrial users are the same as for other users. There are, however, a couple of different situations which occur in the industrial setting.

- *SAC credits can only be used when there is a new use established on the property.*

Example 5: If an industry closes down in 1999, and there is no new use of the property until 2001, no credits can be used until 2001 when there is a new use for the site.

- *Once the new use is established, any credits grand parented into the SAC system and SAC units paid are used to offset the SAC determination of the new use.*
- *If the new use exceeds the old use, in SAC units, the number of units must be remitted at the current SAC rate.*
- *SAC credit is allowed for SAC grandparented into the system and/or paid on a site. If a SAC credit determination based on the current structure and current COB criteria yields more SAC credits than the total of SAC actually paid and SAC grandparented into the system, the latter credit determination is used (see section “Ongoing Determination,” and Example 2a).*

Example 5a: In example 5 above, if the original industry has a total SAC grand parented and paid of 20 units, in 2001 if the SAC determination of the new use indicates 13 SAC units, a new SAC credit of seven (7) units is available to the entity.

Example 6: An industry was either grandparented into the SAC system and/or paid SAC totaling 100 units. The industry then makes a change in process which permanently reduces process flow. The new SAC determination is 75 units. The city can recognize 25 credits.

SPECIAL CREDIT SITUATIONS

A different type of credit situation is an industrial user that permanently changes its industrial process to discharge less wastewater. The modification typically occurs among industrial users holding industrial discharge permits and subject to industrial strength charges. Their discharge includes sanitary waste and industrial waste. By modifying its industrial process, an industrial user may reduce its industrial strength charges (based on treatment demand), its sewer service charges (based on flow volume) and its need for capacity. The modification may occur with little or no change in its exterior building. When a change permanently reduces wastewater flow, COB recognizes this as a change in use and will allow credit to the extent SAC was grand parented and/or paid. COB must approve all such credits to ensure the process change is permanent.

Original, "grandparent," flow volumes (in terms of SAC units) were never recorded for missing, inaccurate, or incomplete; it is very difficult now to properly credit users for wastewater volumes grand parented into the system.

The development of a baseline date does not eliminate the need for "grandparent" SAC determinations for industrial users. Two situations during redetermination require a "grandparent" SAC value. The first is during the proposed SAC redetermination every three years. If documented wastewater discharge volumes in 1991 exceed the proposed, new baseline discharge volumes, the 1991 values will become the baseline values.

The second case where a "grandparent" determination is needed is a credit determination that is needed on the site. A credit determination may be needed when a documented process change has caused a permanent reduction in wastewater flow, or when an industry closes. The industrial site is credited with the grandparent value plus any additional SAC units paid. While grandparent data is lacking for all users, it poses a more serious problem for industrial users compared to commercial or residential users. This is because each residential user by definition equals one SAC unit and commercial users are based on building space and plumbing fixtures, which are verifiable. For industrial users, SAC has been based on maximum normal daily flow volume, which may fluctuate, using these four criteria when making "grandparent" determinations for industrial users:

1. The entity must prove the industrial user was in existence and connected to the

sanitary sewer prior to January 1, 1991. This would yield one SAC unit credit.

2. If a floor plan or building permit is provided, a determination will be made on a square footage basis using current office/warehouse criteria. If a breakdown between office and warehouse is not provided, a 30 percent office and 70 percent warehouse ratio will be used. The process area will be treated as warehouse.

3. A determination is based on the records of water-wastewater billings oldest or closest to 1991. An indication of whether closest to 1991. An indication of whether cooling water was present would also be required. Credit would not be provided for cooling water discharged to the storm or sanitary sewer. Nor would credit be given for incoming water not discharged to the sanitary sewer (i.e., evaporative loss, loss to product, or used in lawn irrigation). A daily average wastewater volume would be calculated based on wastewater volumes and the operating days in the billing period.

4. The oldest data on file with COB is the basis for determination. As in 3 above, credit would not be given for cooling water, or incoming water not discharged to the sanitary sewer. The Industrial Waste Division is currently computerizing flow data for permitted industrial users. In most cases, the data does not go back as far as 1991, but the oldest, reliable data is being recorded for future use.

COB will make the final decision on which of the above criteria most accurately reflects wastewater flow in 1991.

Apartment: A suite of rooms designed as a residence and generally located in a multi-dwelling unit building. A qualifying discounted apartment is a building with 4 or more dwelling units with no plumbing for individual laundry facilities in any of the units.

Assigned SAC Baseline: A number calculated by COB for each registered industrial user that represents the total previously paid or allotted wastewater discharge capacity for the industrial wastewater flow from each registered site. Note that assigned SAC baseline is different from a SAC credit. The assigned SAC baseline is only used for registered industrial user's (potential) industrial capacity charge each reporting period. Any remodel, addition or new building built on an industrial property follows the commercial SAC procedures. If the registered industrial user is operating below their assigned SAC baseline, these are not "credits" to offset SAC due for remodels, additions, or new buildings on the site.

Baseline: Used for industrial properties only, the baseline was the flow documented at the new cutoff date if the industrial wastewater was discharged into the Buffalo disposal system in 1991. Industrial wastewater discharged under registration issued by COB is referred to in these procedures as a "permitted" use.

Capacity Demand: The maximum potential capacity that the public sewers must be prepared to serve. For commercial properties, the demand is determined by the established criteria. For registered industrial users, the demand is individually determined based on discharge volume from industrial wastewater and commercial criteria.

Commercial Property: Any property connected either directly or indirectly to the Buffalo disposal system that is not considered a residential or industrial property per COB definitions. This includes governmental and institutions, such as schools, hospitals, churches, etc.

Commercial SAC: The SAC associated with the capacity demand created by a building and its occupants. Commercial SAC must be collected for all commercial and industrial properties. It is separate from industrial wastewater (e.g., process discharge).

Credit: A SAC credit is a COB measurement of sewer capacity (in SAC units) that has been or is being permanently freed up within the jurisdiction of a community.

Demolition: A demolition (for SAC purposes) occurs when an entire building or structure is torn down, destroyed, or moved off site. To preserve the potential for SAC credits on the site, the Demolition Declaration (Form SAC-D) is required to be reported to COB.

Demolition Credit: A demolition credit is only a potential credit for the future new use on the site. A reported demolition credit only records the number of future potential credits. A demolition must be reported in order for it to be credited to the new use on the site.

Determination: The computation of SAC unit(s) required for a site (usually based on building plans). A determination should be completed by COB Finance when a modification is made to the SAC use of the site or a new use occurs on the site.

Determination SAC Letter: If COB completes a determination review, a letter will be sent to the determination submittal applicant that states the SAC units to be paid to COB.

Dwelling Unit: A building (or portion thereof) designated as a residence for a single family.

Industrial Capacity Charge (ICC): A fee charged directly to registered industrial users with a SIU (Significant Indirect User) agreement for any volume that exceeds a permitted industrial user's ICC threshold at each reporting period.

Industrial Capacity Charge (ICC) Threshold: The volume of wastewater equivalent to the assigned SAC baseline of a facility multiplied by the number of operating days. This value changes each reporting period based on the operating days.

Industrial Property: Any property that is discharging industrial wastewater either directly or indirectly to the Buffalo disposal system. Note that many businesses commonly termed "industries" are not industrial properties for SAC purposes. COB considers these to be commercial properties. COB will make the final determination regarding industrial property classifications consistent with its Waste Discharge Rules. An industrial property will have both commercial SAC (for the building and its occupants) and industrial wastewater (for the industrial process discharge).

Industrial Wastewater: Any solid, liquid, or gaseous waste, excluding domestic waste, resulting from any industrial, manufacturing, commercial, institutional, or business activity, or from the development, recovery, or processing of a natural resource. Any waste that is transported by a Page | 5 liquid waste hauler and disposed into public sewers is industrial wastewater. Any leachate, contaminated groundwater, or surface water, with the exception of inflow and infiltration of clear water disposed into public sewers, is also industrial wastewater.

Leachate: Liquid that has originated within or has percolated through refuse or the protective cover of a landfill.

Maximum Demand: For residential properties this is 1 SAC unit = 164 gallons per day of capacity availability. For commercial properties it is the highest capacity demand in SAC

units, based on the actual SAC paid for the site at any time, less any SAC credits removed from the site. For industrial properties it is the assigned SAC baseline which is the highest recognized demand determined during the industrial permittees reporting period or a special review that resulted in additional SAC being paid after the most recent reporting period.

Registered Industrial User: Any user of the Buffalo disposal system who discharges industrial wastewater is subject to COB registration requirements. The user shall complete an Industrial SAC application as required by COB.

Process Discharge: See industrial wastewater.

Publicly-Assisted Housing: Publicly-assisted housing or housing that qualifies for government subsidy of rents based on resident's income.

Residential Property: A property that is used exclusively for permanent human living space, including single family homes, apartments, attached homes, townhouses, cooperative housing, condominiums, and manufactured homes. It does not include motels/hotels, camps, nursing homes, or prisons.

Significant Industrial User Permit (SIU): A permit issued by the Council to a qualified registered industrial user to use the Buffalo disposal system.