

*** DRAFT - NOT YET FILED ***

3745-3-03

POTW pretreatment programs.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules and federal statutory provisions referenced in this rule, see rule 3745-3-01 of the Administrative Code.]

(A) Any POTW or combination of POTWs operated by the same public authority shall establish, administer, and enforce a pretreatment program in accordance with 40 C.F.R. 403 and this rule if:

(1) The POTW or combination of POTWs has a total cumulative design flow greater than five million gallons per day and receives, from industrial users, pollutants that pass through or interfere with the operation of the POTW or that are otherwise subject to national pretreatment standards; or

(2) The POTW or combination of POTWs has a total design flow of five million or less gallons per day and receives indirect discharges, if the director ~~finds~~determines that such a program is necessary to prevent interference or pass through. The director shall consider and base ~~his~~the determination on the following:

(a) The nature or volume of the indirect discharges; or

(b) The number, nature, or frequency of violations of POTW effluent limitations contained in its NPDES permit; or

(c) The nature, frequency, or duration of POTW treatment process upsets; or

(d) The actual or potential for contamination of municipal sludge; or

(e) Whether the indirect discharges are subject to categorical pretreatment standards; or

(f) Any other circumstance that causes or contributes to an interference or pass through.

(B) POTWs identified as being required to develop a POTW pretreatment program under paragraph (A) of this rule shall develop and submit such a program for approval as soon as possible, but in no case later than one year after written notification from the director of such identification. The POTW pretreatment program shall meet the

criteria set forth in paragraph (C) of this rule and shall be administered by the POTW to ensure compliance by industrial users with applicable pretreatment standards and requirements. The POTW's NPDES permit will be reissued or modified to incorporate the approved program as an enforceable condition of the permit.

(C) A POTW pretreatment program shall be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(1) The POTW shall operate pursuant to legal authority, enforceable in federal, state or local courts, that authorizes or enables the POTW to enforce the requirements of Sections 307(b), 307(c) and 402(b)(8) of the act and any regulation implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements that the POTW is authorized to enact, enter into or implement, and that is authorized by state law. At a minimum, this legal authority shall enable the POTW to:

- (a) Deny or condition any new or increased contribution of pollutants, or change in the nature of pollutants, to the POTW by industrial users where such contribution does not meet applicable pretreatment standards and requirements or where such contribution would cause the POTW to violate its NPDES permit;
- (b) Require compliance with applicable pretreatment standards and requirements by industrial users;
- (c) Issue control mechanisms to control each industrial user's contribution to the POTW to ensure compliance with applicable pretreatment standards and requirements. In the case of industrial users identified as significant under paragraph ~~(FF)~~(GG) of rule 3745-3-01 of the Administrative Code, this control shall be achieved through individual or general control mechanisms issued to each such user or group of users. Both individual and general control mechanisms shall be enforceable and, at a minimum, shall include:
 - (i) A statement of duration (in no case more than five years);
 - (ii) If determined by the control authority to be transferable, a statement of transferability with, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

- (iii) Effluent limits that are based on applicable general pretreatment standards in 40 C.F.R. 403, categorical pretreatment standards, local limits, and state and local law;
 - (iv) Requirements for:
 - (a) Self-monitoring, including an identification of the pollutants to be monitored or the process for seeking a waiver from monitoring a pollutant neither present nor expected to be present in the discharge in accordance with paragraph (C)(1)(d) of this rule, sampling location, sampling frequency, and sample type based on the applicable general pretreatment standards in 40 C.F.R. 403, categorical pretreatment standards, local limits, and state and local law;
 - (b) Reporting; and
 - (c) Notification and recordkeeping;
 - (v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
 - (vi) Requirements to control slug discharges, if determined by the POTW to be necessary;
- (d) Authorize, at its discretion, an industrial user subject to a categorical pretreatment standard, except for centralized waste treatment facilities regulated by and defined in 40 C.F.R. 437, to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:
- (i) The control authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater;

- (ii) A monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user shall submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism;
- (iii) In making a demonstration that a pollutant is not present, the industrial user shall provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver shall be signed in accordance with paragraph (F) of rule 3745-3-06 of the Administrative Code, and include the certification statement in 40 C.F.R. 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the USEPA approved analytical method from 40 C.F.R. 136 with the lowest method detection limit for that pollutant was used;
- (iv) The control authority shall include any monitoring waiver as a condition in the industrial user's control mechanism;
- (v) The reasons supporting any monitoring waiver and any information submitted by the user in its request for the waiver shall be maintained by the control authority for three years after expiration of the waiver;
- (vi) Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the control authority, the industrial user shall certify on each periodic compliance monitoring report required by paragraph (E) of rule 3745-3-06 of the Administrative Code with the following statement:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standards under 40 C.F.R. [specify applicable national pretreatment standard part or parts], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant or pollutants] in the wastewaters due to the activities at the facility since submittal of the last periodic report under paragraph (E) of rule 3745-3-06 of the Administrative Code."
- (vii) In the event that a waived pollutant is found to be present or is

expected to be present based on changes that occur in the industrial user's operations, the user shall be required to immediately:

- (a) Notify the control authority in writing; and
 - (b) Comply with the monitoring requirements specified in the POTW's pretreatment program;
- (viii) The provision for a monitoring waiver does not relieve the industrial user of any other certification processes and requirements established by the control authority or in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard;
- (e) Require the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements;
 - (f) Require the submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including but not limited to the reports required in rule 3745-3-06 of the Administrative Code;
 - (g) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under paragraph (G)(2) of rule 3745-3-06 of the Administrative Code to assure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under Section 308 of the act;
 - (h) Obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement including but not limited to: the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or this chapter. Remedies shall include but are not limited to the following:

- (i) The POTW shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. The POTW shall also have authority to seek or assess civil or criminal penalties in at least the amount of one thousand dollars per day for each violation by industrial users of pretreatment standards and requirements;

[Comment: The director may seek judicial relief or may also use administrative penalty authority when the POTW has sought a monetary penalty that the director finds to be insufficient.]

- (ii) The POTW shall have authority and procedures, after informal notice to the discharger, immediately and effectively to halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons; and

- (iii) The POTW shall also have authority and procedures, that shall include notice to the affected industrial users and an opportunity to respond, to halt or prevent any discharge to the POTW that presents or may present an endangerment to the environment or that threatens to interfere with the operation of the POTW; and

- (i) Comply with the confidentiality requirements set forth in rule 3745-3-07 of the Administrative Code.

- (2) The POTW shall develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the POTW to:

- (a) Identify all possible industrial users that may be subject to the POTW pretreatment program. Any compilation, index or inventory of industrial users made under this paragraph shall be made available to the director upon request;

- (b) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified in paragraph (C)(2)(a) of this rule. This information shall be made available to the director upon request;

- (c) Notify industrial users identified in paragraph (C)(2)(a) of this rule of applicable pretreatment standards and any applicable requirements under Sections 204(b) and 405 of the act and Subtitles C and D of the

Resource Conservation and Recovery Act 42 U.S.C. sections 6901 et seq. to 6992 as amended through July 1, ~~2006~~2010. Within thirty days of approval of a list of significant industrial users pursuant to paragraph (C)(6) of this rule, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status;

- (d) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements in rule 3745-3-06 of the Administrative Code;
- (e) Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect each significant industrial user and sample the effluent from each such user at least once a year, except as follows:
 - (i) Where the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with paragraph (C)(1)(d) of this rule, the POTW shall sample for the waived pollutant or pollutants at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the user's operations, the POTW shall immediately begin inspecting the user and monitoring the user's discharge at the frequency set by the POTW's pretreatment program;
 - (ii) Where the POTW has determined that an industrial user meets the criteria for a non-significant categorical industrial user, the POTW shall evaluate and document, at least once per year, whether the industrial user continues to meet the definition in paragraph ~~(P)~~(Q) of rule 3745-3-01 of the Administrative Code;
 - (iii) In the case of mid-tier industrial users subject to reduced reporting requirements under paragraph (E)(2) of rule 3745-3-06 of the Administrative Code, the POTW shall conduct inspections and randomly sample and analyze the effluent from such users at least once every two years. If the industrial user no longer meets the definition in paragraph (L) of rule 3745-3-01 of the Administrative Code, the POTW shall immediately begin inspecting the industrial user and monitoring the effluent from the

user at the frequency set by the POTW's pretreatment program;

- (f) Evaluate the need for a plan, device or structure to control a potential slug discharge at least once during the term of each significant industrial user's control mechanism. ~~For industrial users identified as significant prior to thirty days after the effective date of this rule, this evaluation shall be conducted prior to October 14, 2006.~~ Additional significant industrial users shall be evaluated within one year of being identified a significant industrial user. For purposes of this chapter, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. The results of these activities shall be made available to the director upon request. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
- (i) Description of discharge practices, including non-routine batch discharges;
 - (ii) Description of stored chemicals;
 - (iii) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under paragraph (B) of rule 3745-3-04 of the Administrative Code, with procedures for follow-up written notification within five days;
 - (iv) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of wastewater discharge, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), or measures and equipment for emergency response;
- (g) Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under rule 3745-3-06 of the Administrative Code or indicated by analysis, inspection, and surveillance activities described in paragraph (C)(2)(e) of this rule. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

- (h) Comply with the public participation requirements of 40 C.F.R. 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in at least one newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, of industrial users that, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment standards or other pretreatment requirements. For the purposes of this provision, an industrial user is in significant noncompliance if its violation meets the criteria in paragraph (C)(2)(h)(iii), (C)(2)(h)(iv), or (C)(2)(h)(viii) of this rule. A significant industrial user is in significant noncompliance if its violation meets any of the following criteria:
- (i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six per cent or more of all the measurements taken for the same pollutant parameter at any permitted monitoring point during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;
 - (ii) Technical review criteria (TRC) violations, defined here as those in which thirty-three per cent or more of all of the measurements taken for the same pollutant parameter at any permitted monitoring point during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
 - (iii) Any other violation of a pretreatment standard or requirement as defined by paragraph (N) of rule 3745-3-01 of the Administrative Code (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
 - (iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (C)(1)(h)(ii) of this rule to halt or prevent such a discharge;

- (v) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (vi) Failure to provide, within forty-five days after the due date, required reports such as baseline monitoring reports, ninety day compliance reports, periodic self monitoring reports, reports on compliance with compliance schedules, or any other reports required by the control authority;
 - (vii) Failure to accurately report noncompliance; or
 - (viii) Any other violation or group of violations, including a violation of BMPs, that the control authority determines adversely affects the operation or implementation of the local pretreatment program.
- (3) The POTW shall have sufficient resources and qualified personnel to carry out the authorities and procedures described in paragraphs (C)(1) and (C)(2) of this rule.
- (4) The POTW shall develop, update as necessary and enforce local limits that will protect the POTW against interference and pass through. The POTW may develop BMPs and such BMPs shall be considered local limits and pretreatment standards for the purpose of this rule.
- (5) The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:
- (a) Describe how the POTW will investigate instances of noncompliance;
 - (b) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
 - (c) Identify each official, including their respective title, that is responsible for each type of response; and
 - (d) Discuss the POTW's primary responsibility to enforce all applicable

pretreatment requirements and standards, as detailed in paragraphs (C)(1) and (C)(2) of this rule.

(6) The POTW shall prepare and maintain a list of its industrial users meeting the criteria in paragraphs ~~(FF)(1)~~(GG)(1) and ~~(FF)(2)~~(GG)(2) of rule 3745-3-01 of the Administrative Code. The list shall:

(a) Identify the criteria in paragraphs ~~(FF)(1)~~(GG)(1) and ~~(FF)(2)~~(GG)(2) of rule 3745-3-01 of the Administrative Code applicable to each industrial user and, when necessary, indicate whether the POTW has made a determination pursuant to:

(i) Paragraphs ~~(P)(Q)~~ and ~~(FF)(3)~~(GG)(3) of rule 3745-3-01 of the Administrative Code that such industrial user should not be considered a significant industrial user; or

(ii) Paragraph (L) of rule 3745-3-01 of the Administrative Code that such industrial user should be considered a mid-tier categorical industrial user.

(b) Initially be submitted to the director when a POTW is applying for approval of its pretreatment program or, in the case of POTWs with approved programs, at the time a program modification request is submitted to provide for a non-significant categorical or mid-tier industrial user classification. Any modification to the list shall be submitted to the director in the POTW's annual report, pursuant to paragraph (J) of this rule.

(7) The POTW may issue a general control mechanism to a group of significant industrial users.

(a) A general control mechanism may be used for a group of significant industrial users if, in the opinion of the POTW, the users are more appropriately controlled under a general control mechanism than under individual control mechanisms. Each user in the group must:

(i) Have the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations; and

(iv) Require the same or similar monitoring.

- (b) To be covered by a general control mechanism, the significant industrial user shall be required to file a written request for coverage that identifies its contact information, its production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with paragraph (C)(1)(d) of this rule for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until the POTW has provided written notice to the significant industrial user that a waiver request has been granted in accordance with paragraph (C)(1)(d) of this rule.
- (c) The POTW shall retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in paragraphs (C)(7)(a)(i) to (C)(7)(a)(iv) of this rule, and a copy of the user's written request for coverage for three years after the expiration of the general control mechanism.
- (d) The POTW shall not control a significant industrial user through a general control mechanism where the user is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined wastestream formula or net/gross calculations in 40 C.F.R. 403.6(e) and 40 C.F.R. 403.15.

(D) POTW pretreatment program submission.

- (1) A POTW requesting approval of a POTW pretreatment program shall develop a program description that includes the information set forth in paragraph (D)(2) of this rule. This description shall be submitted to the director who will make a determination on the request for program approval in accordance with the procedures described in 40 C.F.R. 403.11.
- (2) The program description shall contain, at a minimum, the following information:
- (a) A statement from the city solicitor or a city official acting in a comparable

capacity (or the attorney for those POTWs that have independent legal counsel) that the POTW has authority adequate to carry out the programs described in paragraphs (A), (B), and (C) of this rule. This statement shall:

- (i) Identify the provision of the legal authority under paragraph (C)(1) of this rule that provides the basis for each procedure under paragraph (C)(2) of this rule;
 - (ii) Identify the manner in which the POTW will implement the program requirements set forth in paragraphs (A), (B) and (C) of this rule, including the means by which pretreatment standards will be applied to individual industrial users (e.g., by permit); and
 - (iii) Identify how the POTW intends to ensure compliance with pretreatment standards and requirements, and to enforce them in the event of noncompliance by industrial users;
- (b) A copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW for its administration of the program. This submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and funding the POTW pretreatment program if approved;
 - (c) A brief description of the POTW organization, including an organization chart, that will administer the pretreatment program. If more than one agency is responsible for administration of the program the responsible agencies should be identified, their respective responsibilities should be delineated, and their procedures for coordination should be set forth; and
 - (d) A description of the funding levels and full-and part-time manpower available to implement the program.
- (E) Modification of POTW pretreatment programs. Either the director or a POTW with an approved pretreatment program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW pretreatment program that differs from the information in the POTW's submission, as approved under 40 C.F.R. 403.11.
- (1) The POTW shall submit a pretreatment program modification request to the

director for any modification to its pretreatment program at least forty-five days prior to when it is to be implemented by the POTW.

- (a) A pretreatment program modification request shall, at a minimum, contain the following:
 - (i) A statement of the basis for the desired modification;
 - (ii) A modification program submittal, which shall include the existing portions of the program and the proposed changes; and
 - (iii) Any other documents the director determines to be necessary.
- (b) If the director determines that a modification is a substantial modification, then the POTW shall obtain the director's approval prior to the implementation of the modification. The director shall determine if a modification request is nonsubstantial or substantial based on the criteria in paragraph (E)(2) of this rule. When approving or disapproving a modification request, the director shall follow the procedures in paragraphs (F) and (G) of this rule.

(2) Substantial modifications include:

- (a) Any modification that makes the POTW's legal authorities, as described in paragraph (C) of this rule, less stringent than they were prior to the modification, except for modifications that constitute changes to an approved pretreatment program and are reported as nonsubstantial modifications pursuant to paragraph (G) of this rule;
- (b) Any modification that makes the POTW's local limits less stringent than they were prior to the modification, except for the modifications to local limits for pH and the reallocation of the maximum allowable industrial loading of a pollutant that does not increase the total industrial loading of the pollutant, that are reported pursuant to paragraph (G) of this rule. Maximum allowable industrial loading means the total mass of a pollutant that all industrial users of a POTW or a subgroup of industrial users identified by the POTW may discharge pursuant to limits developed under paragraph (C) of this rule;
- (c) Any change to the POTW's control mechanism, as described in paragraph (C)(1)(c) of this rule;

- (d) A decrease in the frequency of self-monitoring or reporting required of industrial users;
- (e) A decrease in the frequency of industrial user inspections or sampling by the POTW;
- (f) Any change to the POTW's confidentiality procedures;
- (g) A request for authorization to review and take final action on industrial permits to install for indirect discharges from industrial users;
- (h) A request for using the classification of non-significant categorical industrial user, as defined in paragraph ~~(P)~~(Q) of rule 3745-3-01 of the Administrative Code;
- (i) A request for using the classification of mid-tier categorical industrial user, as defined in paragraph (L) of rule 3745-3-01 of the Administrative Code; or
- (j) Any other modification designated as a substantial modification by the director on the basis that the modification could:
 - (i) Have a significant impact on the operation of the POTW's pretreatment program;
 - (ii) Result in an increase in pollutant loadings at the POTW; or
 - (iii) Result in less stringent requirements being imposed on industrial users of the POTW.

(F) Approval procedures for substantial modifications.

- (1) Except as provided in paragraphs (F)(2) and (F)(3) of this rule, the director shall approve or disapprove the modification based on the requirements of paragraph (C) of this rule and using the procedures in paragraphs (b) to (f) of 40 C.F.R. 403.11. The modification shall become effective upon approval by the director.
- (2) The director need not publish a notice of decision under paragraph (e) of 40 C.F.R. 403.11 provided: the notice of request for approval under paragraph

(b)(1) of 40 C.F.R. 403.11 states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(3) Notices required by 40 C.F.R. 403.11 may be performed by the POTW provided that the POTW notice otherwise satisfies the requirements of 40 C.F.R. 403.11.

(G) Approval procedures for nonsubstantial modifications.

(1) The POTW shall notify the director of any nonsubstantial modification at least forty-five days prior to implementation by the POTW in accordance with the provisions of paragraph (E)(1) of this rule.

(2) If the director does not notify the POTW within forty-five days of its decision to approve or deny the modification, or to treat the modification as substantial under paragraph (E)(2) of this rule, the POTW may implement the modification.

(H) All program modifications shall be incorporated into the POTW's NPDES permit or NPDES permits upon approval.

(I) The director may revoke a POTW's pretreatment program prescribed under paragraphs (A) and (B) of this rule if the director ~~finds~~determines that such a program is no longer necessary. Prior to revoking a program, the director shall consider and base ~~his~~the determination on the following:

(1) The nature or volume of indirect discharges;

(2) The number, nature, or frequency of violations of POTW effluent limitations contained in its NPDES permit;

(3) The nature, frequency, or duration of POTW treatment process upsets;

(4) The actual or potential for contamination of municipal sludge;

(5) Whether the indirect discharges are subject to categorical pretreatment standards; and

(6) Any other circumstance that causes or contributes to an interference or a pass through.

- (J) Any POTW that has a pretreatment program shall provide the director with a report that describes the POTW's program activities, including activities of all participating agencies if more than one jurisdiction is involved in the local program. The report required by this paragraph shall be submitted to the director annually as specified in the POTW's NPDES permit. The report shall contain such information as the director deems necessary.
- (K) No POTW shall authorize or otherwise allow an industrial user to discharge pollutants to the POTW in violation of pretreatment standards established in this chapter. This provision shall not be interpreted to prevent a POTW from adopting or enforcing a pretreatment standard that is more stringent than provided in this chapter.
- (L) Any POTW to which reports are submitted by an industrial user pursuant to rule 3745-3-06 of the Administrative Code shall retain such reports for a minimum of three years and shall make such reports available for inspection and copying by the director ~~or his authorized representative~~. This period of retention shall be extended during the course of any unresolved litigation regarding an industrial user's discharge or the POTW's NPDES permit or pretreatment program.
- (M) Industrial user permits to install. The director may authorize a municipal corporation, county, or special district that owns or operates a POTW or sewerage system that has an approved pretreatment program to review and take final action on industrial permits to install for indirect discharges by industrial users of its treatment works or sewerage system.
- (1) In performing the review and final action on permits to install for indirect discharges by industrial users of its treatment works or sewerage system, the municipal corporation, county, or special district shall apply criteria and procedures specified by the director. This provision shall not be interpreted to prevent a municipal corporation, county, or special district from applying criteria or procedures that are more stringent than specified by the director.
 - (2) A municipal corporation, county, or special district that owns or operates a POTW or sewerage system that has an approved pretreatment program requesting authorization to review and take final action on industrial permits to install for indirect discharges by industrial users of its treatment works or sewerage system shall submit the request in accordance with the procedures described in paragraph (E) of this rule. Information to be submitted with the request shall be determined by the director.
 - (3) The director may periodically evaluate the review performed by the municipal

corporation, county, or special district that has received authorization from the director to review and take final action on permits to install under paragraph (M) of this rule and may terminate such authorization for poor quality review, or for failure to apply rules, criteria or procedures specified by the director.

~~[Comment: "C.F.R." refers to the federal "Code of Federal Regulations," which can generally be found in public libraries, and can be viewed electronically online at <http://www.gpoaccess.gov/cfr/index.html> and purchased by writing to: "Superintendent of Documents. Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954."]~~

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