



National Pretreatment Program

(40 CFR 403)



Pretreatment Streamlining Rule Fact Sheet 7.0: Best Management Practices

Summary

Provisions of the Pretreatment Streamlining Rule clarify that publicly owned treatment works (POTWs) may use best management practices (BMPs) as an alternative to numeric limits that are developed to protect the POTW, water quality, and sewage sludge. In addition, the rule requires that any applicable BMPs be included in the user's control mechanism, that self-monitoring reports include BMP compliance information where applicable, and that documentation of compliance information for BMPs be maintained by the POTW and the user.

What are BMPs?

BMPs are management and operational procedures that are intended to prevent pollutants from entering a facility's wastestream or from reaching a discharge point. BMPs are defined at Title 40 of the *Code of Federal Regulations* (CFR) 403.3(e) as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in sections 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

When are BMPs appropriately used?

BMPs may be Pretreatment Standards in two different circumstances. The first is when the BMPs are categorical Pretreatment Standards established by EPA. These are discussed in more detail below. The second is when a POTW establishes BMPs as local limits to implement the general and specific prohibitions.

EPA anticipates that POTWs will choose to use BMPs instead of numeric limits where determination of compliance with numeric limits is infeasible or as a supplement to numeric limits, as appropriate, to meet the requirements of the Clean Water Act. BMPs may be appropriate for regulating releases when the types of

pollutants vary greatly over time, when chemical analyses are impracticable, where discharges are episodic in nature, and when other discharge control options are inappropriate (e.g., requirements for photoprocessors to use silver recovery systems or for dental facilities to follow BMPs to control mercury). Additional examples of BMPs used for the control of commercial sources of wastewater can be found in "Appendix W - Best Management Practices Mini-Case Studies" of "Local Limits Development Guidance Appendices," EPA 833-R-04-002B, July 2004.

(http://www.epa.gov/npdes/pubs/final_local_limits_appendices.pdf)

What elements should be included in an enforceable BMP?

Enforceable BMPs may include the following elements: (1) specific notice to IUs of requirements and enforceability; (2) installation of treatment; (3) requirements for or prohibitions on certain practices, activities or discharges; (4) requirements for operation and maintenance of treatment units; (5) timeframes associated with key activities; (6) compliance certification, reporting and records retention; (7) provision for re-opening or revoking the BMP conditions; and (8) other requirements as determined by the POTW. Depending on the industry being controlled, not all elements may be necessary or appropriate.

POTWs may develop and implement the use of BMPs in lieu of numerical local limits for IUs

Description of change: The final rule clarifies that POTWs may develop BMPs for industrial users (IUs) in order to implement the specific limits requirements listed at 40 CFR 403.5(c)(1–2). Such BMPs are considered local limits and Pretreatment Standards. POTWs have the option to use BMPs to regulate IUs at their discretion (e.g., to regulate noncategorical IUs).

When developing and implementing BMPs, what actions are required? POTWs must evaluate BMPs during the technical evaluation of their local limits, structuring applicable BMPs to allow for compliance verification. For BMPs to be considered local limits under 40 CFR 403.5(c), the practices must protect against Pass Through and/or Interference.

When implementing BMP requirements for IUs, the control authority (CA) must include those requirements, as necessary, in the IU's control mechanism.

POTWs must include BMPs required by a categorical Pretreatment Standard in the CIU's control mechanism

Description of required change: The final rule clarifies at section 403.8(f)(1)(iii)(B)(3) that BMPs required by a categorical Pretreatment Standard **must** be included amongst any necessary effluent limits in the CIU's control mechanism.

What follow-up actions are required? POTWs must revise, as necessary, CIU control mechanisms to include applicable BMPs required by categorical Pretreatment Standards. Appropriate reporting and recordkeeping requirements must also be specified in the control mechanism and compliance information maintained. For example, facilities may develop toxic organic management plans in lieu of sampling to demonstrate compliance with the total toxic organic limit in 40 CFR Part 433 (Metal Finishing category). The Pesticides Formulating, Packaging, and Repackaging (PFPR) regulation provides a pollution prevention alternative as an option that may be chosen rather than complying with the "zero discharge" limitations.

IU reports must include BMP compliance information

Description of required change: The final rule requires at sections 403.12(b), (e), and (h) that IUs subject to BMP requirements as part of their Pretreatment Standards submit documentation of compliance with such requirements.

What follow-up actions are required? POTWs must revise, as necessary, IU control mechanisms to require IUs to report on compliance with Pretreatment Standards that include BMP requirements. States and POTWs must revise their programs to ensure that they have the legal authority and procedures to enforce this requirement.

The CA must enforce those requirements where IUs fail to submit the required information. The CA must also ensure that the BMPs are enforceable, and that its enforcement response plan addresses violations of BMP requirements.

Documentation of compliance with BMP requirements must be maintained as part of the IU's and POTW's record-keeping requirements

What steps are required to implement these Streamlining provisions?

Description of required change: The final rule clarifies at section 403.12(o) that the POTW and the IU must maintain records of BMP compliance in the same way that other records are maintained as part of section 403.12(o).

What follow-up actions are required? POTWs must notify IUs of this change and revise IU control mechanisms to require maintaining BMP compliance records. The POTW must also maintain documentation associated with BMPs.

Once the POTW has determined what program revisions it will make in response to the Streamlining Rule, it must submit the modifications to the Approval Authority (either the state, if it has Pretreatment Program authority, or the EPA Regional Administrator) for approval. The program modifications must include a statement of basis for the changes, a description of the modifications, and other information the Approval Authority may request, as appropriate.