

From: Torrence, Rufus
Sent: Tuesday, December 04, 2012 3:43 PM
To: 'Mcavoy, Lance'
Subject: AR0021750 AFIN 66-00226 City of Fort Smith: Streamlining Program Update-BMP Language for Narrative
Attachments: Narrative-BMP Section 12-2012 ADEQ Review 20121204.docx

Lance,

I have reviewed the recommended language and made some corrections.

Rufus

From: Mcavoy, Lance [<mailto:LanceM@FortSmithAR.gov>]
Sent: Monday, December 03, 2012 3:33 PM
To: Torrence, Rufus
Subject: BMP Section Review

Rufus,

Attached is the proposed section on BMPs that you have requested be added to our program narrative. Please review and comment on it so I may include it when we send in our narrative this month.

Thank you,

Lance A. McAvoy,
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G. Best Management Practices (BMPs)

The term *Best Management Practices* or *BMPs* means “schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 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.

The Control Authority may develop Best Management Practices (BMPs) to implement 40 CFR 403.5(c)(1) and (c)(2). Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

When ~~Best Management Practices~~ BMPs are developed by the Control Authority and approved by ADEQ, the BMPs are enforceable by ~~both~~ Federal, State and local law. A Significant Industrial User (or any Industrial User) is in significant noncompliance if the Control Authority determines that its violation, which may include a violation of Best Management Practices, ~~which the POTW determines will~~ has adversely affected the operation or implementation of the local Pretreatment program.

Comment [TR1]: The language in this paragraph has been modified to comply with 40CFR403.18(b) and 40CFR403.8(f)(2)(viii)(H).

~~In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Control Authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations.~~ In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the standard

Comment [TR2]: Not relevant to the BMP section of the narrative. In accordance with 40CFR403.3(e), BMPs are management practices and do not include sampling and analysis.

~~In cases where the pretreatment standard requires compliance with a Best Management Practice (or pollution prevention alternative), the user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the user.~~

Comment [TR3]: Redundant language

~~In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the user must submit documentation required by the Control Authority to determine the compliance status of the user. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in part 136 and amendments thereto.~~

Comment [TR4]: Redundant language

~~Any industrial user and Control Authority subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices. Such records shall include for all samples:~~

Comment [TR5]: In accordance with 40CFR403.3(e), BMPs are management practices and do not include sampling and analysis.

- ~~(i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;~~
- ~~(ii) The dates analyses were performed;~~
- ~~(iii) Who performed the analyses;~~
- ~~(iv) The analytical techniques/methods use; and~~
- ~~(v) The results of such analyses.~~

~~Any industrial user or Control Authority subject to the reporting requirements (including documentation associated with Best Management Practices) shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required) and shall make such records available for inspection and copying by the Control Authority and/or Approval Authority. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or Control Authority or when requested by the Approval Authority.~~

The Industrial User shall retain documentation associated with BMPs for minimum of 3 years and shall make such records available for inspection and copying by the Control Authority. The Control Authority may extend this period of retention during the course of any unresolved litigation regarding the Industrial User.

Note: For the City convenience, the recommended language is listed below with the corrections shown above:

G. Best Management Practices (BMPs)

The term *Best Management Practices* or *BMPs* means “schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 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.

The Control Authority may develop Best Management Practices (BMPs) to implement 40 CFR 403.5(c)(1) and (c)(2). Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

When BMPs are developed by the Control Authority and approved by ADEQ, the BMPs are enforceable by Federal, State and local law. A Significant Industrial User (or any Industrial User) is in significant noncompliance if the Control Authority determines that its violation, which may include a violation of Best Management Practices, has adversely affected the operation or implementation of the local Pretreatment program.

In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the standard

The Industrial User shall retain documentation associated with BMPs for minimum of 3 years and shall make such records available for inspection and copying by the Control Authority. The Control Authority may extend this period of retention during the course of any unresolved litigation regarding the Industrial User.

Comment [TR6]: The City has blended the recordkeeping requirements of the IU with the recordkeeping requirements of the POTW. Some of the requirement shown here are those required by ADEQ in reference to annual reports submitted by the City to the Department.

Furthermore, the City has blended recordkeeping requirement for compliance with numerical standards with the requirements of BMPs.