

*Memorandum
For the Record*

To: Janelle Evyan, Attorney, Office of Law and Policy

Through: Caleb Osborne, Associate Director, Office of Water Quality

From: Robert Blanz, PhD., P.E., Acting Sr. Operations Manager, Office of Water Quality

Subject: Corrections/Clarifications to Draft Regulation Number 6

Date: October 19, 2016

Regulation No. 6 is currently out for public comment until close of business today, October, 19, 2016. The following administrative corrections are recommended:

Recommended Correction:

Reg. 6.204 (C) An industrial user discharging or proposing to discharge to a publicly owned treatment work without an approved publicly owned treatment works pretreatment program must comply with the more stringent of either the Federal Pretreatment Standards in applicable Categories (Effluent Guidelines) located in 40 CFR Parts 400-471 (Chapter I, Subchapter N) or with conditions of pretreatment in the publicly owned treatment work's NPDES permit or local ordinances.

Rationale: 40 CFR 403.4 provides that "*Nothing in this regulation is intended to affect any Pretreatment Requirements, including any standards or prohibitions, established by state or local law as long as the state or local requirements are not less stringent than any set forth in National Pretreatment Standards*"....

In other words, an industrial user's effluent limits for discharge to a POTW without an approved pretreatment program cannot be less stringent than local law, the applicable categorical pretreatment standard, or interfere or pass through the sewage treatment works as described in 40 CFR 403.5.

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Recommended Clarification:

Reg. 6.401 (A) ~~Small discharges~~ dischargers (less than or equal to 0.05 MGD) and small dischargers to Reservoirs with Domestic Water Supply Use

(1) ~~The most stringent~~ At the minimum, effluent limitations for oxygen demanding flows from small dischargers and small dischargers to reservoir with domestic water supply designated use will be 10/15 ~~biochemical oxygen demand (BOD5)/Total Suspended Solids)~~ (carbonaceous biochemical oxygen demand (CBOD5)/Total Suspended Solids), with nutrient removal where appropriate, which is considered as Best Conventional Treatment for dischargers in this flow range.

Rationale: In preparation of this Draft of Regulation No. 6, the drafters sought to combine 2.401 (A) and 2.401 (C) since the effluent limits were identical. In doing so the words "discharges", and "small" were misused or omitted. The references are intended to be the same for small dischargers discharging to a receiving stream or to a reservoir with a Domestic Water Supply designated use.

The term BOD5 which includes a nitrogenous oxygen demand component was erroneously substituted for CBOD5 which does not. By retaining the term CBOD5, the Department is clearly able to include ammonia (NH₄-N) toxicity limitations in accordance with Regulation No. 2.409.