



Florida Industrial Pretreatment Association

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ELECTRONIC SUBMITTAL

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Dawn K. Templin, P.E.
Pretreatment Program Coordinator
Florida Department of Environmental Protection
2600 Blair Stone Rd. MS#3540
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Subject: Association Comments to Proposed Rule Changes

Dear, Dawn K. Templin, P.E.,

The Florida Industrial Pretreatment Association (FIPA) is comprised of nearly 400 water quality professionals that operate or are associated with Industrial Pretreatment programs in Florida. The FIPA is pleased to present comments to the Department concerning proposed changes to 62-625, F. A.C., on behalf of association members and public utilities operating Industrial Pretreatment programs in Florida.

1. Removal Credits

Section 62.625.420(5)(d)3., on page 39, lines 11 through 14 state, "The Department shall publish a notice of withdrawal or modification of revised discharge limits in a daily newspaper(s) of general circulation **that provides meaningful public notice** with the largest circulation within the jurisdiction served by the WWF, and shall provide an opportunity for an administrative hearing."

Comment: The term, "**meaningful public notice**," does not appear in the definitions under Chapter 62-625.200. The term is ambiguous and is not likely to add to the quality or effectiveness of notice publications. The FIPA suggests deleting the phrase, "**that provides meaningful public notice.**" At a minimum the Department should define the term, "**meaningful public notice**," to ensure that public utilities operating Industrial Pretreatment programs in Florida understand its meaning and are therefore able to comply with the requirement.

2. Industrial User Inspection and Sampling Intervals

Section 62.625.500(2)(b)(5), on page 46, lines 9-13 state,
"5. 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 and sample the effluent from each significant industrial user at least once every twelve months except as specified in a. through c. below.”

Page 46, lines 14-22 state,

“a. Where the control authority has authorized a categorical industrial user to waive sampling of a pollutant regulated by a categorical pretreatment standard in accordance with Paragraph 62-625.600(4)(b) F.A.C., the control authority must sample for the waived pollutant(s) at least once during the term of the categorical industrial user's control mechanism. In the event that the control authority 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 control authority must immediately begin at least annual inspection and effluent monitoring of the user’s discharge;

Page 46, lines 23-26 state,

“b. Where the control authority has determined that an industrial user meets the 23 criteria for classification as a non-significant categorical industrial user, the control authority must evaluate, at least once per year, whether an industrial user continues to meet the criteria in Paragraph 62-625.200(25)(c) F.A.C.; or”

Page 47, lines 1-6 state,

“c. In the case of industrial users subject to reduced reporting requirements under Paragraph 62-625.600(4)(c) F.A.C., the control authority must randomly sample and analyze the effluent from industrial users and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in 4 Paragraph 62-625.600(4)(c) F.A.C., the control authority must immediately begin 5 sampling and inspecting the industrial user at least once a year.”

Comments: The proposed additions to Section 62.625.500(2)(b)(5)a.-c., concerning sampling and inspection intervals make reference to, “once in twelve months,” page 46 lines 12-13, “at least once during the term of the categorical industrial user's control mechanism,” page 46 lines 14-22, “at least annual,” page 46 line 21, “at least once per year,” page 46 line 25, “at least once every two years,” page 47, lines 3-4 and “at least once per year,” page 47, line 6. The proposed wording can be interpreted to have several different meanings. FIPA suggests using, at least once per calendar year, at least once during the term of the categorical industrial user's control mechanism, or, at least once per Control Authority Program year, to clarify the proposed inspection and sampling intervals.

3. Public participation requirements/Enforcement of pretreatment standards Section 62.625.500(2)(b)8.a.,b., and c., on pages 48 - 49, lines 15 through 19, 20 through 25 and 1 through 5 respectively state,

“a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude), a

- numeric pretreatment standard or requirement, including instantaneous limits; ~~the daily maximum limit or the average limit for the same pollutant~~ 18 parameter,
- b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, ~~daily maximum limit or the average limit~~ multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, total oil ~~Total Oil~~ and grease ~~Grease~~, and 1.2 for all other pollutants except pH);
 - c. Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) effluent limit (daily maximum or longer term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through, or endangers the health of WWF personnel or the general public;”

Comment: The proposed language in subparts a. and b., are practically identical. The proposed language in subpart c. appears to contain a combination of old and new terms as follows:

Proposed new term, daily maximum, deleted old term, daily maximum
 Proposed new term, long-term average, deleted old term, longer-term average

The FIPA recommends that the Department keep the terms in the referenced subsections consistent.

4. Local Limits

Section 62.625.500(2)(c), on page 49, lines 22 through 25 states, “A plan of study shall be submitted to the Department prior to initiating the sampling required to develop local limits. All local limit reports and supporting documentation shall be signed and sealed by a Professional Engineer, in accordance with Chapter 471, F.S.”

Comment: The FIPA is opposed to requiring local limit reports and supporting documentation to be signed and sealed by a Professional Engineer for several reasons.

- a. The concept of the Federal Streamlining Rule is to reduce the regulatory burden of Pretreatment Program implementation on WWFs and industrial users. Requiring local limit reports and supporting documentation to be signed and sealed by a Professional Engineer increases both the regulatory and financial burden of Pretreatment Program implementation on WWFs and industrial users. If adopted this signature and seal requirement will conflict with the Federal Streamlining Rule.
- b. The FIPA researched Pretreatment Rules in other states to determine if the proposed requirement is widely used and accepted. None of the state

Approval Authority rules reviewed requires local limit reports and supporting documentation to be signed and sealed by a Professional Engineer. Therefore Florida would set a precedent if this requirement is adopted.

- c. Neither the existing, or, proposed control authority signatory requirements contained in 62-625.600(12) on page 78 lines 16-23, stipulates that reports submitted to the Department, including Discharge Monitoring Reports (DMRs) and annual Industrial Pretreatment Program reports, have to be signed and sealed by a Professional Engineer.
- d. The FIPA would be interested to see Department documentation of WWFs in Florida that have experienced pass through, interference, or, employee injury as a result of not having a Professional Engineer sign and seal local limit reports and supporting documentation.
- e. The FIPA feels that the any proposal that increases the operational costs for public utilities operating Industrial Pretreatment programs in Florida, considering the current economic climate, will not be well received.
- f. The FIPA respectfully asks the Department to forego the proposed requirement for local limit reports and supporting documentation to be signed and sealed by a Professional Engineer.
- g. The FIPA feels that the initial developmental of defensible and protective, but not overly stringent, local limits could be better achieved by adopting a standard template on which plans of study and local limits must be submitted for Department review and approval. Standard templates for plans of study and local limits development could streamline the administrative review process for the Department, as well as, improve the developmental quality of local limits for WWFs in Florida. As such, the FIPA offers to partner with and assist the Department in developing such standard plans of study and local limits development/submittal templates by organizing and participating in a task specific technical advisory committee, or, other means suitable to the Department.

5. Enforcement Response Plans

- a. Section 62.625.500(2)(d), on page 50, lines 4-5 state, "Describe how the control authority will investigate instances of noncompliance, including sampling, data review, site visits and inspections;"

Comment: The portion of the sentence that the Department is proposing can be interpreted in different ways. For example one interpretation is that control authorities must describe how "sampling, data review, site visits and inspections, " will be used to investigate instances of noncompliance. The proposed language could also be interpreted to mean that control authorities must describe how they will investigate instances of noncompliance which include sampling violations, violations detected during data review, violations detected during site visits and violations detected during inspections. Listing violation types in this section could undermine the legal authority both of the Department and control authorities in

that an industrial user can argue that what a control authority considers to be a violation if not listed in this section by the Department is not a violation and therefore cannot be enforced, if the intent is to list violation types for which control authorities must describe how instances of noncompliance will be investigated in their enforcement response plans. The FIPA asserts that line 4 on page 50 can effectively stand alone and suggests that the proposed language on line 5 of page 50, “including sampling, data review, site visits and inspections.” be omitted.

- b. Section 62.625.500(2)(d), on page 50, lines 6-10 state, “Describe the types of escalating enforcement responses the control authority will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place for effluent limits violations, self-monitoring and reporting violations, compliance schedule violations, and violations found during inspections.”

Comment: The portion of the sentence the Department is proposing to identify violations does not include every conceivable type of violation. One example is an unauthorized discharge when an industrial user discharges after a control authority issues orders not to discharge. Listing violation types in this section as in the previous section could undermine the legal authority both of the Department and control authorities in that an industrial user can argue that what a control authority considers to be a violation if it is not listed in this section by the Department is not a violation and therefore cannot be enforced. The FIPA suggests that the Department omit the proposed language, “for effluent limits violations, self-monitoring and reporting violations, compliance schedule violations, and violations found during inspections.”

6. **Pretreatment Program Review and Approval Procedures**

Section 62-625.510(2)(a), on page 54, lines 19-24 state, “(a) Provide the public utility with a copy of a notice of request for approval of a pretreatment program. The public utility shall publish the notice in a ~~daily~~ newspaper(s) of general ~~with the largest~~ circulation with meaningful public notice within the jurisdiction(s) served by the WWF within 14 days of receipt of the request for publication. The public utility shall provide proof of publication to the Department, at the address specified in the request for publication, within 7 days of publication.”

Comment: The term, “meaningful public notice,” in line 21 of page 54 is ambiguous and is not likely to add to the quality or effectiveness of notice publications. The FIPA suggests deleting the phrase, “that provides meaningful public notice.” At a minimum the Department should define the term, “meaningful public notice,” to ensure that public utilities operating Industrial Pretreatment

programs in Florida understand its meaning and are therefore able to comply with the requirement.

7. Measurement of pollutants

Proposed revisions to section 62-625.600(1)(e)3., on page 63, lines 6 and state, “The industrial user shall take a minimum of one representative sample to demonstrate ~~compile that data necessary to~~ comply with these requirements.

Comment: The FIPA recommends that the Department replace the existing word, “comply,” with, compliance to clarify the intent of this subsection.

8. Reporting Requirements for Control Authorities and Industrial Users

Proposed additions to Section 62-625.600(16), on page 81, lines 15-22 state, “All control authorities shall periodically provide to the Department a written technical evaluation regarding the need to revise local limits. At a minimum, the evaluation shall be provided within 180 days following permit issuance or reissuance. The evaluation shall verify whether existing local limits protect the WWF, and if not, shall develop new local limits as part of the evaluation. For new local limits, a plan of study shall be submitted to the Department prior to initiating sampling required to develop the new local limit. This evaluation shall be signed and sealed by a Professional Engineer registered in accordance with Chapter 471, F.S.”

Comment: The FIPA is opposed to requiring periodic technical evaluations of local limits to be signed and sealed by a Professional Engineer outside of and not directly employed by the public utility for several reasons.

- a. The concept of the Federal Streamlining Rule is to reduce the regulatory burden of Pretreatment Program implementation on WWFs and industrial users. Requiring periodic technical evaluations of local limits to be signed and sealed by a Professional Engineer outside of and not directly employed by the public utility increases both the regulatory and financial burden of Pretreatment Program implementation on WWFs and industrial users. If adopted as proposed by the Department this signature and seal requirement will conflict with the intent of the Federal Streamlining Rule.
- b. The FIPA researched Pretreatment Rules in other states to determine if the proposed requirement is widely used and accepted. None of the state Approval Authority rules reviewed requires periodic technical evaluations of local limits to be signed and sealed by a Professional Engineer. Therefore Florida would set a precedent if this requirement is adopted as proposed.
- c. Neither the existing, or, proposed control authority signatory requirements contained in 62-625.600(12) on page 78 lines 16-23, stipulates that reports submitted to the Department have to be signed and sealed by a Professional Engineer.
- d. The FIPA would be interested to see Department documentation of WWFs in Florida that have experienced pass through, interference, or, employee injury as a result of not having a Professional Engineer sign and seal local limit reports and supporting documentation.

- e. The FIPA feels that the any proposal that increases the operational costs for public utilities in Florida and their industrial customers, considering the current economic climate, will not be well received.
- f. The FIPA urges the Department to reconsider the proposed requirement for periodic technical evaluations of local limits to be signed and sealed by a Professional Engineer.
- g. The FIPA feels that industrial customers permitted under public utilities operating Industrial Pretreatment Programs in Florida, those public utilities and the Department would be better served by adopting a standard template on which periodic technical evaluations of local limits must be submitted for Department review and approval. Standard templates on which periodic technical evaluations of local limits would be submitted could very well speed the administrative review process for the Department by avoiding nonstandard submittal formats. As such, the FIPA offers to partner with and assist the Department in developing such standard templates on which periodic technical evaluations of local limits would be submitted by organizing and participating in a task specific technical advisory committee, or, other means suitable to the Department.

9. Inconsistent Use of Various Terms

The FIPA conducted a closed review of Chapter 62-625 F.A.C., draft observing many replacement terms used in an effort to standardize rule references. Many inconsistencies are still apparent. Statistical use of the terms is enclosed in an Excel spreadsheet with page and line references showing the location of the terms throughout the Chapter. Statistical use of the terms is summarized in the terminology table below.

Suggestion: The FIPA suggests that the Department conduct a review of Chapter 62-625 F.A.C., using the statistical use of terms contained in the enclosed Excel spreadsheet with page and line references showing the location of the terms throughout the Chapter. Please keep in mind the importance of consistent term use throughout the Chapter.

Chapter 62-625 F.A.C., Draft, Terminology Table

Statistical Use of the word , " "	Existing No Change	Proposed New	Removed	Replaced by:	Replaces section	Total Use
"chapter"	23	4	4	1	5	37
"Chapter"	20	7	8	2	0	37
"Subparagraph"	2	4	2	3	0	11
"paragraph"	0	9	0	0	0	9
"paragraphs"	0	5	0	0	0	5
"Paragraph"	0	12	0	12	0	24
"Paragraphs"	0	0	0	3	0	3
"rule"	5	0	2	1	0	8
"rules"	3	0	0	0	0	3
"Rule"	24	7	15	43	0	89
"Rules"	0	1	2	0	0	3
"section"	15	0	0	6	0	21
"Section"	1	0	0	0	7	8
"Sections"	0	1	0	0	2	3
"subsection"	7	0	0	0	0	7
"Subsection"	0	5	0	21	0	26
"Subsections"	0	1	4	4	0	5

Thank you for the opportunity to comment on proposed revisions to 62-625 F.A.C. Please contact my office at, (772) 466-1600, ext., 5517, right away should you decide to accept the Association's offer to assist with plan of study, local limits development and periodic local limits technical evaluation submittal forms development. The FIPA is eager to partner with and assist the Department in such a worthy endeavor.



FIPA President

Enclosure (1)

cc: Sharon Sawicki, Program Administrator
 Justin Wolfe, Esquire
 FIPA Board
 FIPA Members
 FIPA Webmaster
 FIPA Files