



ARKANSAS
Department of Environmental Quality

February 1, 2011

Gary Smith, Director
City of Van Buren
P O Drawer 1269
Van Buren, AR 72956

Re: City of Van Buren Pretreatment Program Document
(Permit No. AR0021482, AFIN 17-00062)

Dear Mr. Smith:

In reference to Van Buren Municipal Utilities (VBMU) letter dated September 28, 2010, the Department has reviewed VBMU Pretreatment Program Document. The Department has the following concerns:

Required Changes to Program Document

1. In accordance with 40 CFR 403.2, the objectives of the Van Buren Pretreatment Program are the same as the Federal and State objectives. The city has listed "Streamlining" updates on pages 1 of 9 & 2 of 9. Please delete the Streamlining updates and replace the updates with the objectives listed in §403.2 (a), (b) & (c). Refer to Attachments A-2/11 & A-3/11.
2. In accordance with 40 CFR 403.8(f)(5)(ii), enforcement must be "escalating". Administrative penalties should be imposed by only the Director and/or the Commission after appropriate responses by the Environmental Coordinator. In reference to Attachments A-9/11 & A-10/11, please delete this sentence in paragraphs A.1 and A.5 in the ERG, "*Impose appropriate administrative penalties.*" Also, in the ERP Index please move 10.A.1., "*Surcharges and Administrative Penalties Assessed...*" to 10.B.2.b (see Attachment A-5/11), in the ERP under paragraph 8 please delete "*Administrative Penalties*" (see Attachment A-6/11) and under paragraph 10 please move "*Administrative Fines...*" to a new paragraph 10.B.2.b under Administrative Remedies (see Attachments A-7/11 & A-8/11).

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Recommended Changes to Program Document

1. VBMU included an Introduction and the Objectives to the narrative but fail to add the titles to the Table of Contents (see Attachment A-1/11).
2. VBMU should remove Appendix B and refer the reader to a website (for example, GPO Access) for a current electronic copy of 40 CFR 403 (see Attachment A-11/11).
3. Please review each page in each attachment for corrections and/or recommendations.

If you have any questions or concerns, please contact the Department at (501) 682-0626 or torrence@adeq.state.ar.us .

Sincerely,



Rufus Torrence,
ADEQ Engineer

Cc: Kim Redo / City of Van Buren
Larry Weir, PE / Hawkins-Weir Engineers, Inc / P O Box 648 / Van Buren, AR 72957

Attachments: A – 1/11 thru A-11/11

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Program Description

Summary

Pretreatment Program

- I. Application to Discharge
- II. User Surveys
- III. Monitoring
- IV. Existing Treatment Facilities:
 - a. Van Buren Main (South) Plant - NPDES No. AR00021482
 - b. Van Buren North Plant - NPDES No. AR0040967
 - c. Van Buren/Lee Creek Industrial Park (Bekaert) - NPDES AR0037567
- V. Permits
- VI. Control of Contributors to the POTW
- VII. Slug Control Evaluations
- VIII. Best Management Practices (BMPs)
- IX. Pretreatment Program Updating

Add "Introduction"
"Objectives"

Pretreatment Ordinance

- Ordinance No. 26 - 2009
- Ordinance No. 27 - 2009

Enforcement Response Plan

Legal Authority

- Attorney's Letter of Opinion

Existing Ordinances

- Ordinance No. 8 - 1959
- Ordinance No. 32 - 2008
- Ordinance No. 7-A - 1992
- Ordinance No. 26 - 2002
- Ordinance No. 20 - 1998
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- Ordinance No. 15 - 2005

Existing Treatment Systems

- 2010 WWTP Location Map
- Van Buren South (Main) Plant Treatment Narrative
 - South (Main) WWTP Flow Schematic
- Sludge Disposal Site
- Van Buren North Plant Treatment Narrative
 - North WWTP Flow Schematic
- Van Buren Lee Creek Industrial Park Treatment Narrative
 - Van Buren Lee Creek Industrial Park WWTP Flow Schematic

Allowable Loadings

5. To provide the Control Authority with the discretion to authorize the use of equivalent concentration limits in lieu of mass limits for certain industrial categories, and allow the conditional use of equivalent mass limits in lieu of concentration-based limits where appropriate to facilitate adoption of new, water-conserving technologies.
6. To clarify the definition of significant noncompliance (SNC) as it applies to violations of instantaneous and narrative requirements, and late reports, and provide additional options for publishing lists of industrial facilities in significant noncompliance.

VAN BUREN INDUSTRIAL PRETREATMENT PROGRAM

I. APPLICATION TO DISCHARGE:

All industrial entities desiring to discharge to the sanitary sewage collection and treatment system of the City of Van Buren, Arkansas must first apply to the Van Buren Municipal Utilities (VBMU) for water and sewerage service and pay required deposits. Prior to service, the VBMU advises such entities desiring to discharge that they must apply for and receive a permit to discharge to the systems of the City of Van Buren. VBMU personnel shall notify the Environmental Coordinator of new users for the purpose of industrial user classification and monitoring of the status of the proposed and subsequently provided service. Applications for Permit Form, Appendix A-1, are available from the VBMU business office, 2806 Bryan Road, P.O. Drawer 1269, Van Buren, Arkansas 72957. Permit applications and permit requirements are also available from the Van Buren Chamber of Commerce and from the Van Buren City Hall who shall make such information known to prospective industrial entities contacting those offices.

The permit requires the providing of the following information to the Director in written documentation delivered in person, by express courier, or by certified U.S. Mail:

- 1) The name and mailing address of the industrial discharger (or potential discharger).
- 2) The location of the industrial discharger (or potential discharger). The location may be by street address, coordinates, and/or a descriptive location adequate to define the site of the discharge.
- 3) The nature and Standard Industrial Classification Code (SIC) of the operation(s) carried out by the industrial discharger (proposed discharger).

Comments: The treatment plant receives sanitary wastewater from Bekaert Steel Wire Corporation, the Field of Dreams Sports Complex (seasonal), and the Arkansas Department of Highways and Transportation's Van Buren Rest Area on Interstate 40. Bekaert Steel Wire Corporation has separate process wastewater collection, treatment, and disposal.

V. PERMITS:

Industrial User Permits are issued for all significant Industrial Dischargers based on application by the user or proposed user. Permits are issued for a period of three (3) years unless revoked. Permits are issued to a specific discharger and are not assignable without the written permission of the Commission. Permits are not transferable to another location.

Industrial User Permits are written with a specified discharge date and it is the responsibility of the discharger to apply for any modifications to the permit and for renewal not later than 90 days prior to the expiration of the effective permit.

Violations of permits include administrative, civil and criminal penalties as established by City Ordinance. Penalties may include monetary penalties for the over discharge of any regulation parameter, assessment of costs for damages caused by violating discharges, and criminal penalties.

VI. CONTROL OF CONTRIBUTORS TO THE POTW:

The City may control discharges to the POTW from Industrial Users through the Pretreatment Ordinance. The Ordinance denies the connection of a significant user to the system without a valid discharge permit. The City's Sewer Use Ordinance also regulates domestic dischargers. Authority to develop such ordinances is derived from the conferred by Federal Law, State Law, and by City Ordinance.

VII. SLUG CONTROL EVALUATIONS

The Ordinance requires users regulated by the Ordinance ^{typo} to report immediately to the Department slug discharges as defined by 10.08.02.1.2.j) with follow-up written notice within five (5) days, 10.08.02.3.(c)

The Ordinance requires procedures for the prevention of impact from slug discharges including monitoring and clean-up.

The ordinance designates the responsibility of liability that may be imposed resulting from such slug load discharge.

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* Delete "Surcharges"; Move "Administrative Penalties" to para 10.B.2. b.

6. ENFORCEMENT VIOLATION:

Violations and discrepancies identified during compliance screening will be evaluated by the EC to determine the type of enforcement response required. The Enforcement Response Guide (Table I) attached to the ERP will be used for this determination.

7. PUBLISHING LISTS OF INDUSTRIAL USERS WITH SIGNIFICANT VIOLATIONS:

General Pretreatment Regulations require the VBMU to publish, at least annually, in the largest daily newspaper with the city's distribution, a list of industrial users which were significantly violating applicable pretreatment standards and requirements during the previous 12 months. The procedures for compiling the list of such users is as follows:

- A. The EC shall prepare a compliance history from VBMU records for each individual significant user.
- B. The compliance history so obtained for each industrial user shall be reviewed to determine if a pattern of non-compliance exists or if the industry has been or continues to be in Significant Non-Compliance (SNC). If an industry meets this criteria, it will be placed on the list for publication.

8. INFORMAL AND FORMAL MEANS OF ENFORCEMENT:

Means of enforcement available to the VBMU are:

Informal Actions

- ~~Administrative Penalties~~ please delete *
- Notices of Violation
- Final Violation Notice
- Review Meetings

Formal Actions

- Compliance Schedule
- Administrative Order/Penalties *
- Show Cause Hearing
- Consent Order
- Termination of Permit
- Termination of Service
- Judicial Remedies, Injunctive Relief, Civil Penalties and/or Criminal Penalties

9. ENFORCEMENT RESPONSE:

In accordance with the Federal Pretreatment Regulations (40 CFR, Part 403.8 (f) (5) (ii)), a description of the types of escalating enforcement responses the POTW regulated by the VBMU, will take in response to anticipated types of industrial user violations and the time periods within which responses will take place must be identified in the ERP. Table 1, Enforcement Response Guide, provides this description. Table 1 also provides a definitions listing to interpret

* "Administrative penalties" are listed under Formal Actions.

the enforcement response procedures as well as general information regarding the enforcement program. Figure 1 provides the officials/entities responsible for each type of response.

10. DESCRIPTION OF ENFORCEMENT ACTIVITIES:

The categories of enforcement activities are described in the succeeding paragraphs.

A. Informal Actions:

1. Administrative Fines Assessed as per Ordinance #27-2009.

Move to
"Administrative
Remedies"
below

1 X

Notice of Violation: A Notice of Violation(s) (NOV) is a written notice to the industrial user that the VBMU has observed a violation of pretreatment standards or requirements and expects the non-compliance to be corrected. A phone call may serve as a NOV in such instances as cited in Table I, provided the violator is informed that the call is in lieu of a written NOV. The NOV shall state that additional enforcement action may be pursued if corrections are not accomplished in a timely manner. A NOV shall also state that an explanation of the violation does not excuse it or any previous violations. NOVs shall be sent by certified mail, return receipt requested, or hand delivered with copies maintained in the industrial user's file.

2. X

Final Violation Notice: A Final Violation Notice may be issued upon the instance of a repeat violation as determined by repeat sampling. The Final Violation Notice may have the same content as a NOV. However, if said compliance is not achieved in a timely manner, the Commission shall proceed with other methods as outlined in other sections of this document. Final Violation Notices shall be sent by certified mail, or registered mail with return receipt requested, or hand delivered with copies maintained in the industrial user's file.

3. X

Review Meetings: Where further violations continues to occur, the IU shall be notified by the Director, Operations Superintendent, or EC in writing as to the particulars of the violation(s) and be called for a voluntary meeting with the IU. Review meetings are intended to provide a voluntary means of preventing future violations of the Pretreatment Program. The notice sent to the IU shall be sent by registered mail, certified mail, return receipt requested, or hand delivered with copies maintained in the industrial user's file, and shall be entitled "Notice of Review".

Neither the Notice of Violation or Final Violation Notice is a precondition for calling a review meeting. No informal action is a prerequisite for instituting formal enforcement procedures.

B. Formal Actions:

1. Compliance Schedule: A Compliance Schedule shall be a written calendar of dates and tasks to be accomplished by those dates which will realize the IU's being able to meet the requirements of the Pretreatment Ordinance, Ordinance #26-2009. The Compliance Schedule shall be issued to the IU with the consideration being given to the IU's ability to reasonably meet the requirements of the Schedule. Failure to meet any milestone date of the

Compliance Schedule shall not negate the requirement to meet any other date on the Schedule. Failure to meet any interim date shall be a violation unless the IU receives a written revision of the Compliance Schedule by the VBMU Director.

2. Administrative Remedies:

a. Administrative Order to Comply: Administrative Orders (AOs) are enforcement documents which direct industrial users to undertake or cease specified activities. Administrative Orders may incorporate Compliance Schedules, administrative penalties, and termination of service orders. Compliance with the terms and conditions of the AO will not be construed to relieve the user of its obligation to comply with applicable Federal, State or local law. Violation of the AO itself may subject the user to all penalties available under the Ordinance #26-2009 & 27-2009 and subsequent pretreatment ordinances adopted by the City. No provision of the order will be construed to limit the Commission's authority to implement its pretreatment program. The provisions of the order shall be binding upon the user, its officers, directors, agents, employees, successors, assigns, and all persons, firms, and corporations acting under, through, or on behalf of the industrial user.

b. Administrative Fines

3. Show Cause Hearing: The Commission may order any user who cause or allows an unauthorized discharge into the POTW to show cause why the VBMU should not revoke the user's waste water discharge permit or take such other enforcement action as is dictated by the facts of the case. The Commission shall issue such a notice for Show Cause Hearing specifying the time and place of a hearing to be held by the Commission. Such notice shall state the reasons why the action is to be taken and the proposed enforcement action. Such notice shall direct the user to show cause before the Commission why such action should not be taken. Following such hearing, the VBMU may take such action as it deems appropriate. The notice of the Show Cause Hearing shall be served personally or by certified or registered mail, return receipt requested, with copies maintained in the industrial user's file.

Subsequent to a Show Cause Hearing, appropriate actions may include the following:

a. Consent Order: The Consent Order is an agreement between the Commission and the industrial user containing: (1) compliance schedules; (2) stipulated fines or remedial actions; and (3) signatures of the Commission and industry representatives.

b. Termination of Permit: Any user who violates the conditions of Ordinance #26-2009 and 27-2009, or a waste water discharge permit or order, or any applicable State or Federal law, is subject to permit termination. The Commission shall have the legal authority to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonable appear to present an imminent

TABLE 1

VAN BUREN MUNICIPAL UTILITIES
ENFORCEMENT RESPONSE GUIDE

A. SAMPLING, MONITORING AND REPORTING:

	<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>	<u>RESPONSE</u>
1.	Failure to sample monitor, report (routing reports, BMR's etc.) or notify	Isolated infrequent	Phone call within 2 days of initial violation detection requiring a report to be submitted within 7 days from the date of the phone call. Impose appropriate administrative penalties. If no report received within these 7 days, notice of violation (NOV) sent within 10 days from the date the report was to be received requiring report submission immediately. (If no response is received within 30 days of original due date, permittee is in SNC.) Within 10 days after SNC status, notify permittee of SNC status and require submission of report immediately.	EC EC
2.	Failure to sample monitor, report, or notify.	IU does not respond to letters, does not follow through on verbal or written agreement, or frequent violation – SNC. (This circumstance is related to item A1 above.)	Administrative Order (AO) issued within 30 days if no response is received after 30 days from original due date. AO within 30 days if no response is received after 30 days from original due date.	OS, D OS, D
3.	Failure to notify of effluent limit violation or slug.	Isolated or infrequent No known effects. (May be SNC – failure to accurately report non-compliance.)	Director may suspend service and/or the wastewater Discharge Permit. May request judicial action including penalties and/or criminal investigation depending on circumstance. Phone call within 24 hours after discovery of incident to ask industrial user (IU) why notification was not made and to determine what happened. Evaluate IU response and write letter requesting additional information or appropriate response within 7 days of phone call if needed. Provide due dates in correspondence. If response is not received within 7 days of due date, issue NOV within 5 days after due date requiring response within 7 days of NOV.	D EC EC
			Request show cause meeting or issue AO within 30 days after requiring response if no response received. Impose appropriate administrative fines.	EC D, C
				D, C

A-9/11

A-10/11

4.	Failure to notify of effluent limit violation or slug discharge.	Frequent or continued violation (May be SNC - failure to accurately report non-compliance.)	Within 7 days of initial violation detection, NOV requesting written response due in 10 days of NOV as to why notification not made and what happened to cause violation. Schedule show cause meeting or issue AO within 30 days after response due date if no response received.	EC
5.	Failure to resample (due 30 days after discover of violation.) (The October 17, 1988 Revisions to the Pretreatment Regulations include a requirement to repeat effluent analysis after each violation and provide the information to the Control Authority within 30 days.)	Infrequent or Frequent	Within 7 days after report due, phone call or NOV. Impose appropriate administrative penalties	OS, D EC
			Escalate to AO within 30 days after response due date if no response received or if violations continue.	OS, D
			Impose appropriate administrative penalties	D, C
6.	Failure to notify of effluent limit violation or slug discharge	Known environmental (i.e., pass-through or interference) and/or POTW damage results - SNC.	Judicial action and penalties within 90 days of initial violation detection.	D, C
7.	Minor sampling, monitoring, or reporting deficiencies (computational or typographical errors.)	Isolated or infrequent.	Phone call within 7 days of initial violation detection. Corrections to be made on the next submittal. NOV if continued.	EC
8.	Late Reports	Any beyond due date	Late Report Processing Fee assessed at a rate computed annually by the Commission in accordance with §10.08.03	EC
9.	Major or gross sampling, monitoring, or deficiencies (missing information, late reports.)	Isolated or infrequent.	NOV within 7 days of initial violation detection. Corrections to be made on the next submittal.	EC
10.	Major or gross sampling, monitoring, or reporting deficiencies (missing information, late reports.)	Frequent. Two consecutive months or more than 3 per year.	NOV within 7 days of 2 nd violation detection.	EC
11.	Major or gross reporting deficiencies.	Continued. Remains uncorrected 30 days or more - SNC (Related to A2)	Call IU for show cause hearing. AO or judicial action within 30 days of SNC determination.	OS, D OS, D

B. COMPLIANCE SCHEDULES (Construction Phases or Planning):

	NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE	
1.	Reporting false information.	Any instance - SNC	Request for criminal investigation within 90 days of initial violation detection. Judicial action, penalties, and /or sewer ban may be initiated within 90 days of initial violation detection.	D, C
2.	Missed interim date.	Will not cause late final date or other interim dates. Violation for good or valid cause.	NOV within 10 days of initial violation detection.	EC

** Delete*

Electronic Code of Federal Regulations

e-CFR™

e-CFR Data is current as of January 13, 2010

Please delete Appendix B entirely. Refer the reader to a website for a current copy of 40 CFR Part 403.

Title 40: Protection of Environment

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PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

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Authority: 33 U.S.C. 1251 *et seq.*

Source: 46 FR 9439, Jan. 28, 1981, unless otherwise noted.

§ 403.1 Purpose and applicability.