



ARKANSAS  
Department of Environmental Quality

June 18, 2010

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 February 10, 2010, the Department has reviewed VBMU Pretreatment Program Document. The Department has the following concerns:

Required Changes to Program Document

1. VBMU must include Ord #27-2009 as a "Pretreatment Ordinance" instead of an "Existing Ordinance". Ord #27-2009 specifies penalties for exceeding local limits and is listed in the Enforcement Response Plan (ERP). Therefore, Ord #27-2009 is a part of VBMU legal authority to operate the pretreatment program. Please include Ord#26-2009 and Ord #27-2009 in a new section with this title, "Pretreatment Ordinances".
2. In accordance with 40 CFR 403.8(f)(5)(iii), VBMU must "*Identify (by title) the official(s) responsible for each type of response*" in the Enforcement Response Plan (ERP). The preferred location to identify these officials is the Enforcement Response Guide (ERG). Referring to Attachment D, the Department has modified VBMU's ERG to include identification. The Department encourages VBMU to verify or alter each identification assigned to the Environmental Coordinator (EC), Operations Superintendent (OS), Director (D) and Municipal Utilities Commission (C).

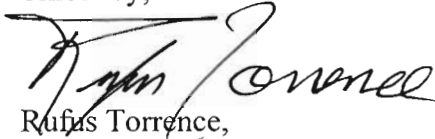
3. In accordance with 40 CFR 403.9(b)(1)(i), VBMU must “*Identify the provision of the legal authority under §403.8(f)(1) which provides the basis for each procedure under §403.8(f)(2)*”. Gary R. Cottrell’s letter dated January 6, 1994 does not identify the provisions in Ord #3-1991. The letter refers to “Appendix 1” which shows only the content of 40 CFR 403.8(f). Furthermore, the City has passed a new ordinance (#26-2009) and VBMU must identify the provisions in the new ordinance. Therefore, the City must submit a new letter from the attorney. The Department has attached an example letter. For the convenience of VBMU, the Department has identified the appropriate cites in Ord #26-2009 in Attachment E - 4/4. VBMU should confirm the citations.

#### Recommended Changes to Program Document

1. VBMU should include an Introduction and Program Objectives to the narrative.
2. VBMU should include language in the narrative for all the required Streamlining updates (Slug Evaluation and Best Management Practices).
3. Correct “typos” in South and North Plant POTW’s Allowable SIU Loading Charts. These MAHL (Maximum Allowable Headworks Loading) charts should be removed from the narrative and included in a separate TBLL (Technically Based Local Limits) document. The TBLL document should be submitted to ADEQ for review.
4. 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](mailto:torrence@adeq.state.ar.us) .

Sincerely,



Rufus Torrence,  
ADEQ Engineer

- Attachments:
- A - Table of Content
  - B - Van Buren Industrial Pretreatment Program
  - C - Enforcement Response Plan (ERP)
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VAN BUREN INDUSTRIAL PRETREATMENT PROGRAM

**INTRODUCTION**

[Place language for introduction here]

**PRETREATMENT PROGRAM OBJECTIVES**

[Place language for program objectives here. Refer to 40 CFR 403.2 for details.]

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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).
- 4) The average and maximum anticipated rate of flow from such industrial discharger (or potential discharger) to the Van Buren Public Sewerage System in liters per day and liters per minute. (Flows shall also be reported in gallons per day and gallons per minute.)
- 5) The nature and the concentration of pollutants in the discharge from each process from the industrial discharger (or potential discharger). Minimum pollutants to be reported are BOD<sub>5</sub>, total suspended solids, pH and temperature. If there is potential for containing the other treatment process limiting pollutants or if required by the Department, concentration shall be reported on, but not limited to, the following:

Biochemical Oxygen Demand	Nickel
Total Suspended Solids	Selenium
Cadmium	Zinc
Chromium	Arsenic
Copper	pH (Standard Units)
Lead	Temperature (°C)
Mercury	Phenols
Molybdenum	

Pollutant concentration shall be reported or estimated in micrograms per liter and total estimated contribution per day in grams or kilograms. Significant organic pollutants shall also be estimated or reported.

- 6) A statement, reviewed by an authorized representative of the industrial discharger (or potential discharger), indicating whether the pretreatment standards of the City of Van Buren are being met (or should be met by a potential discharger) on a consistent basis and, if not, whether additional pretreatment is required for the discharge to meet the standards.
- 7) A time based schedule shall be submitted which stipulates what tasks shall be accomplished at what time in order to comply with the discharge standards. The shortest schedule of time

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shall be provided whereby the industrial discharger shall provide needed additional pretreatment or correct any operation and maintenance defects.

## II. USER SURVEYS:

All significant industrial users as defined by Ordinance #26-2009 must obtain a permit in order to discharge. Dischargers deemed not to be a significant industrial user will not be required to be so permitted.

All existing industries shall be surveyed at intervals not greater than 36 months to ascertain compliance with the Pretreatment Program of the City of Van Buren. Industrial and commercial contributors to the Sanitary Sewerage System shall be surveyed to determine if they are a significant contributor as defined by the Pretreatment Ordinance and to determine if they should be included within the City's Pretreatment Program. Survey forms shall be mailed and/or hand delivered by the Pretreatment Officer to industrial and commercial users. A copy of the survey form is enclosed, as Appendix A-2. The Pretreatment Officer will contact all users not responding or responding incompletely personally or by telephone within 6 months of the dates of the survey form being mailed. Failure to respond beyond the follow-up shall be treated as being in significant non-compliance subject to enforcement response procedures for non-reporting. Users determined to be subject to pretreatment standards shall be notified within 30 calendar days of such determination by certified mail. Users shall be required to certify that to their belief and knowledge that the user does not discharge non-complying toxics into the wastewater system, Appendix A-3. Failure to do so shall be cause to implement a monitoring program.

## III. MONITORING:

Monitoring of the industries to determine compliance shall be accomplished by the Department with scheduled monitoring, unscheduled monitoring, demand monitoring, and self-monitoring.

Inspections for the purpose of monitoring compliance shall be documented by the Environmental Coordinator or other designated representative of the Environmental Coordinator by the completion of an Inspection Report form, Appendix A-5. These shall be maintained for record and used to document compliance, non-compliance, need for additional monitoring, and need for enforcement response.

Each circumstance of sample collection for the purpose of compliance monitoring shall be documented by the completion of an Effluent Discharge Monitoring form, Appendix A-6, by the Environmental Coordinator.

Each circumstance of inspection of flow measurement devices for the purpose of calibration or verification shall be documented by the completion of a Flow Calculation Sheet form, Appendix A-7, by the Environmental Coordinator or designated representative of the Environmental Coordinator.

### A) Scheduled Monitoring:

Scheduled monitoring shall be accomplished by the Department at frequency intervals not greater than annually. The frequency of the scheduled monitoring shall be established annually when the permit for the Industrial User is reviewed. The frequency of scheduled monitoring shall be arbitrary dependent upon the nature of the waste being discharged by the Industrial User and the significance of possible non-compliance for the treatment works. Scheduled monitoring shall accomplish the following:

- 1) Check for Pretreatment Program and Ordinance Compliance
- 2) Determine appropriate user charges
- 3) Completion of any forms required by regulatory or enforcement agencies.

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The schedule of scheduled monitoring shall be confidential. However, unless the schedule frequency required is daily, Industrial Users shall be given at least one (1) hours notice prior to the occurrence.

Scheduled monitoring shall include on site inspection of any pretreatment facilities, sources of actual or potential discharge to the sewer system, sampling, and flow measurement devices. A written report of each incident of scheduled monitoring shall be made to the industry so monitored.

B) Unscheduled Monitoring:

The Department shall make unscheduled monitoring to spot check industrial dischargers. Unscheduled monitoring shall not require prior notification to the industry but only a cursory inspection of the facilities shall be made. Sampling shall be made via grab samples, composite sampling, and flow measurement with the facilities available. Unscheduled monitoring shall be for the purpose of spot-checking compliance and determining if more formal monitoring or more frequent scheduled monitoring is appropriate. The results of unscheduled monitoring will be maintained on record in the Van Buren Municipal Utilities laboratory office with the results routinely reported to the industry monitored.

C) Demand Monitoring:

Demand monitoring shall be conducted at any time that prohibited pollutants are detected in the sewerage system for the purpose of locating the source of such pollutants.

D) Self-Monitoring:

Self-monitoring is required for all significant industrial dischargers. Specific self-monitoring may be required by an individual discharger's permit (i.e. flow, pH, temperature, BOD<sub>5</sub>, suspended solids, specific toxic pollutants, etc.). Periodic reports of required self-monitoring shall be transmitted to the Director at intervals designated by the permit.

Scheduled monitoring, unscheduled monitoring, and demand monitoring only shall be used for enforcement activities. Self-monitoring may be utilized for the purposes of assessing applicable fees and charges.

E) Monitoring Equipment:

If required by permit conditions, an industrial discharger shall install and maintain a special control manhole designed to provide sufficient access for sampling and an appropriate control surface for flow measurement. Also, if required, permanent flow recording equipment of a type determined by the director to be compatible with the Department's monitoring equipment shall be installed. If required by the permit or subsequent revisions to the permit permanent sampling equipment of a type satisfactory to collect 24-hour composite samples (flow weighted if deemed necessary by the Department) shall be installed and shall be maintained by the Discharger. The cost of operating and maintaining the required facilities shall be the responsibility of the Discharger involved. Monitoring shall be accomplished with (1) grab samples, in which a single volume of wastewater is obtained and analyzed, (2) time weighted composite samples, in which grab samples are collected at timed sequences and combined in a single reservoir, and (3) flow weighted samples, in which incremental samples are collected and combined in proportion to the total wastewater flow.

If available, automatic equipment will be utilized to collect composite samples. All monitoring reports shall indicate the method by which the sample is collected. The industrial contributor shall be offered an equal portion of those samples collected by the Department for scheduled monitoring or demand monitoring.

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F) Sample Preservation:

Samples shall be preserved and tested in accordance with the recommendations of "Standard Methods" (latest edition approved by the USEPA) or other recognized and approved standard procedure.

G) Sample Records:

Self-monitoring sample reports shall specify the name of the Discharger's employee or representative collecting the sample, and the method of transporting the sample, and the name of the technician or private laboratory performing the analyses.

All samples shall be tagged with the identifier and shall be logged with such pertinent information as date, time, and location of the sampling. The splitting of any sample shall be done in the presence of an authorized Department employee. Only authorized Department employees shall have possession of the samples collected for scheduled or demand monitoring between collection and delivery to the laboratory. Numbered log receipts shall be maintained for each transfer of sample possession.

All samples collected for the purpose of monitoring shall be accompanied by a chain of custody record to be completed to document sampling and handling of samples. The Chain of Custody Record form is included as Appendix A-8.

IV. EXISTING TREATMENT FACILITIES:

A) Van Buren Main (South) Plant

NPDES No. AR0021482; AFIN 17-00062

Location: Latitude 35°25'9.04"  
Longitude 94°20'19.35"

Capacity: 4.0 MGD

Process: Screening unit, aerated lagoon - activated sludge system, final clarifiers, and UV disinfection

Industrial Contribution: 27.2% by volume  
(\*data from 2008-2009 Pretreatment year)

Inhibition/Pass Through/Sludge Contamination: Plant modifications completed in 2009 improved treatment for Biochemical Oxygen Demand, Biochemical Oxygen Demand, Fecal Coliform and Ammonia Nitrogen. No pass through or sludge contamination is perceived at time of this publication (January 2010).

Sludge Disposal: Present sludge disposal is by land application to property owners and is controlled by the Department. Sludge is removed from the lagoons periodically (at approximate 2 year intervals) by dredging and is surface applied and incorporated by disking, or is applied by subsurface injection. The land application process is permitted by the Arkansas Department of Environmental Quality.

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B) Van Buren North Plant

NPDES No. AR0040967

Location: Latitude 35°28'19.24"  
Longitude 94°23'27.01"

Capacity: 2.0 MGD

Process: Bar screens, three individual systems of oxidation ditches with the final clarifiers operated in parallel (at any time or any combination of the three systems may be operated) followed by UV disinfection. Equalization pond is used during wet weather conditions. The wastewater from the equalization pond is pumped through the wastewater treatment system.

% Industrial Contribution: 0.79%

Inhibition/Pass Through/Sludge Contamination: None.

Sludge Disposal: Plant design provides for on site, long term, aerobic storage with continued plans for periodic land application for disposal to permitted disposal sites.

C) Van Buren/Lee Creek Industrial Park (Bekeart):

NPDES No. AR0037567

Location: Latitude 35°27'11.84"  
Longitude 94°23'32.94"

Capacity: 0.004 MGD

Process: Extended aeration activated sludge package plant and chlorine disinfection.

% Industrial Contribution: 0%

Inhibition/Pass Through/Sludge Contamination: None

Sludge Disposal: Sludge is stored in a holding tank and transported by the city to its Northside Treatment Plant (AR0040967) for disposal.

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.

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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

[Place language for VBMU slug evaluations procedures here. Refer to EPA Fact Sheet 8.0 for details (Attachment G)]

VIII. Best Management Practices (BMPs)

[Place language for BMPs here. Refer to EPA Fact Sheet 7.0 for details (Attachment H)]

IX. PRETREATMENT PROGRAM UPDATING:

The validity of the pretreatment program requirements and the conformance with changing regulations are determined by information released through trade journals, the Congressional Federal Register, and through pretreatment seminars produced by USEPA and ADEQ. This program is to be maintained by information derived from Water Environment Federation journals, which shall be available to the Environmental Coordinator and the director, and through regular attendance of the pretreatment seminars by the Environmental Coordinator. The Commission's Engineer also provides literature information regarding current pretreatment requirements through monitoring of trade and professional journals and through attendance of technical seminars.

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ENFORCEMENT RESPONSE PLAN  
(ERP)

VAN BUREN MUNICIPAL UTILITIES

January 1, 2010

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ENFORCEMENT RESPONSE PLAN

1. INTRODUCTION:

The July 24, 1990 revisions to the Federal Pretreatment Regulations (40 CFR, Part 403) required that Publicly Owned Treatment Works (POTWs) develop and implement an Enforcement Response Plan (ERP). The requirement is specifically stated in 40 CFR, Part 403.8(f)(5) as follows:

- (5) The POTW shall develop and implement an Enforcement Response Plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of Industrial User (IU) noncompliance. The plan shall, at a minimum:
  - (i) Describe how the POTW will investigate instances of noncompliance;
  - (ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
  - (iii) Identify (by title) the official(s) responsible for each type of response;
  - (iv) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8 (f) (1) and (f) (2).

**Comment:** Please note that the City must ID each official. The ERG (Enforcement Response Guide) is the best place.

The Van Buren Municipal Utilities has prepared an Enforcement Response Plan to establish a framework to respond to instances of industrial user noncompliance in accordance with the Federal Regulations. The ERP is subject to the provisions of Van Buren Ordinance Nos. 26-2009 and 27-2009.

Procedures to be used for staying current with applicable Pretreatment Regulations will include, but not be limited to, Department attendance at pretreatment conferences and seminars, water and wastewater education classes, Federal Register updates, information from ADEQ and USEPA bulletins.

2. ENFORCEMENT RESPONSE PLAN:

The enforcement philosophy is progressive. That is, problems are addressed at the lowest level and with the least formality possible consistent with the specific problem. No enforcement procedure is contingent upon the completion of any less formal procedure. The procedures provided in the ERP are for general guidance of the Van Buren Municipal Utilities staff; those procedures are not jurisdictional and are not a basis for defense to action taken by the Van Buren Municipal Utilities (VBMU) as a result of a violation of Van Buren Ordinance #26-2009, a permit or other applicable law. Section 10.08.05.2 of Ordinance #26-2009 requires that all significant industrial users obtain a waste water discharge permit as a condition of discharge. Permits may be for a period as long as three years, and may limit waste water constituents and flows, may require installation and operation of sampling and monitoring facilities, establish compliance schedules and require submissions of periodic reports and notices as needed. The waste water discharge permit represents the VBMU's first means of controlling the waste water discharge by significant industrial users since, if permit requirements are met by the permittee, no further enforcement activity should be required.

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3. NON-COMPLIANCE INVESTIGATIONS:

Potential instances of industrial non-compliance are identified through review of industrial self-monitoring requirements, compliance monitoring (both scheduled and unscheduled) and routine inspections. Demand inspections and monitoring are performed if necessary.

4. SAMPLING AND INSPECTION OF INDUSTRIAL USERS:

The industrial self-monitoring report is reviewed upon receipt. The report is checked for the appropriate certification statement and sampling frequency, type, and results. Violations are noted and the appropriate response is made. Compliance monitoring is performed a minimum of once per year by VBMU personnel and once per year by the SIU. A minimum of one visit per year by the VBMU is unscheduled. The number of compliance monitoring visits performed is based upon past, present and potential sewage discharge constituencies as reviewed and regulate by the VBMU. This monitoring is an effective way to unsure industrial compliance with permit limitations and requirements. All compliance monitoring is performed in compliance with U.S.EPA sampling and analytical procedures (40 CFR, Part 136) and would provide data admissible in enforcement procedures. Chain of custody procedures are in effect. The industries are required to self-monitor as per individual permit established under the direction of the VBMU. All monitoring is performed in compliance with U.S. EPA sampling and analytical procedures (40 CFR, Part 136) and would provide data admissible in enforcement procedures. Compliance monitoring includes SIU self-monitoring and monitoring by the VBMU.

The annual inspection is made of all regulated industrial users. It is scheduled approximately one week in advance. The inspection provides an opportunity to review the industry's operation, pretreatment facilities, sample collection, etc. to ensure compliance with the permit and local/state/federal regulations.

Scheduled inspections and compliance monitoring visits, scheduled and/or unscheduled, are examples of routine sampling visits. Demand monitoring and inspection activities would be performed in response to a known or suspected violation to gather additional information and/or to confirm any suspicions. These actions constitute non-routine visits.

5. COMPLIANCE SCREENING:

Using all available information, the Environmental Coordinator (EC) shall conduct an initial compliance review or screening to determine and assess compliance with schedules, reporting requirements and applicable pretreatment standards. Such screening shall be undertaken at least monthly. Review completed under this section is designed to identify apparent violations.

During the screening, the reviewer shall verify that required reports are submitted on schedule, cover the proper time period, include all information required in the particular report and are properly signed. As past of this process, the reviewer will compare the information supplied with the requirements in the industrial user's permit. Any discrepancy shall be considered to be a violation of the ERP. To the extent possible, the industrial user will be required to correct such discrepancies immediately upon their discovery.

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 procedures (Table I) attached to the ERP will be used for this determination.

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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
- 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 Procedures Guide provides this description. Table 1 also provides a definitions listing to interpret 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.

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2. 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.
3. 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.
4. 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

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& 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.

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 endangerment to the health or welfare of persons, or to the environment, or which threatens to interfere with the POTW's operation.
- c. Judicial Remedies: If any person discharges sewage, industrial wastes, or other wastes into the VBMU's sanitary sewer system contrary to provisions of Ordinance 26-2009 & 27-2009, it's waste water discharge permit or order, or any applicable State or Federal law, the Commission, through legal counsel, may commence an action for appropriate legal and/or equitable relief, including recovery of civil penalties assessed by the Commission, in the appropriate court of competent jurisdiction subject to the provisions of Ordinance #26-2009 & 27-2009.
- d. Injunctive Relief: Whenever an IU has violated or continues to violate the provisions of Ordinance #26-2009 or 27-2009, its waste water discharge permit or order, or any applicable State or Federal law, the Commission, through legal counsel, may petition the Court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the IU.

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TABLE 1

VAN BUREN MUNICIPAL UTILITIES

ENFORCEMENT RESPONSE PROCEDURES GUIDE

A. SAMPLING, MONITORING AND REPORTING:

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>	<u>PERSONNEL</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.  Administrative Order (AO) issued within 30 days if no response is received after 30 days from original due date.	EC  EC  OS, D
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.)	AO within 30 days if no response is received after 30 days from original due date.  Director may suspend service and/or the wastewater Discharge Permit. May request judicial action including penalties and/or criminal investigation depending on circumstance.	OS, D  D

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<p>3. Failure to notify of effluent limit violation or slug</p>	<p>Isolated or infrequent effects. (May be SNC – failure to accurately report non-compliance.)</p>	<p>Phone call within 24 hours after discovery of incident to ask industrial user (IU) why notification was not made and to determine what happened.</p> <p>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.</p> <p>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.</p> <p>Request show cause meeting or issue AO within 30 days after requiring response if no response received.</p> <p>Impose appropriate administrative fines.</p>	<p>EC</p> <p>EC</p> <p>EC</p> <p>OS, D</p> <p>D, C</p>
<p>4. Failure to notify of effluent limit violation or slug discharge.</p>	<p>Frequent or continued violation (May be SNC – failure to accurately report non-compliance.)</p>	<p>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.</p> <p>Schedule show cause meeting or issue AO within 30 days after response due date if no response received.</p>	<p>EC</p> <p>OS, D</p>

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NONCOMPLIANCE	CIRCUMSTANCES	RANGE OF RESPONSE
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. Require re-sampling.  Escalate to AO within 30 days after response due date if no response received or if violations continue.  Impose appropriate administrative penalties.
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.
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.
8. Late Reports	Any beyond due date	Late Report Processing Fee assessed at <del>\$10.00 per calendar day beyond due date</del> at a rate as computed annually by the Commission in accordance with §10.08.03.
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.
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 <sup>nd</sup> violation detection.  Call IU for show cause hearing.
11. Major or gross reporting deficiencies.	Continued. Remains uncorrected 30 days or more – SNC (Related to A2)	AO or judicial action within 30 days of SNC determination.

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B. COMPLIANCE SCHEDULES (Construction Phases or Planning):

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>
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
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<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>
3. Missed interim date.	Will result in other missed interim dates. Violation for goof or valid cause	NOV within 10 days of initial violation detection EC AO within 30 days of initial violation detection, depending on circumstances. OS, D

C. EFFLUENT LIMITS:

<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>
1. Exceeding final limits (categorical, local, or prohibited.)	Infrequent or isolated minor violations.	NOV within 10 days of initial violation detection. EC AO within 30 days of initial violation detection, depending on circumstances. OS, D Impose appropriate civil penalties and administrative penalties. D, C

2. Exceeding final limits.	Infrequent or isolated major violations exceed the limits by TRC of an individual effluent limit.	NOV within 15 days of initial violation detection including notification to IU of SNC definition and status EC
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			AO within 90 days of initial violation detection Judicial action if environmental harm (pass-through or interference resulted, including penalty). Impose appropriate civil penalties and administrative penalties.	OS, D  D, C
3.	Exceeding final limits.	Violation(s) that are SNC (i.e., meet chronic and/or TRC criteria for SNC).	AO within 90 days of initial violation detection Judicial action, including penalty, within 90 days of SNC determination. Impose appropriate civil penalties and administrative penalties	OS, D  D, C
4.	Exceeding interim limits.	Infrequent violations without known damages.	NOV within 10 days of initial violation detection. AO within 90 days of initial violation detection Impose appropriate civil penalties and administrative fines.	EC  OS, D  D, C
5.	Exceeding interim limits.	Frequent violations without known damages.	AO within 90 days of initial violation detection Judicial action, including penalty within 90 days of initial violation detection depending on circumstances. Impose appropriate civil and administrative penalties.	OS, D  D, C
6.	Exceeding interim limits	Infrequent or frequent violations results in known environmental or POTW damage – SNC.	AO of Judicial action, including penalty within 90 days of initial violation detection depending on circumstances. Impose appropriate civil and administrative penalties.	D, C

7.	Reported slug load.	Isolated without known damage	Within 90 days of initial violation detection depending on circumstances require IU to submit report to VBMU with cause and remedy.	EC
8.	Reported slug load.	Isolated with known interference, pass-through, or damage – SNC.	AO or judicial action, including penalty within 90 days of initial violation detection.	D, C
9.	Reported slug load	Recurring – SNC.	Judicial action, including penalty within 90 days of initial violation detection. Impose sewer ban if circumstances warrant.	D, C
10.	Discharge without a permit or approval.	Discharge without known environmental or POTW damage.	AO within 90 days of initial violation detection. Impose sewer ban if circumstances warrant.	D

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	<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>
11.	Discharge without a permit or approval	Discharge that results in environmental or POTW damage or continuing violation – SNC	AO or judicial action including penalty within 90 days of initial violation detection. If IU fails to cooperate, disconnect from sewer. Request for criminal investigation within 30 days of initial violation detection if circumstances warrant. Begin permit issuance process within 30 days of initial violation detection.
12.	Discharge without a permit or approval.	Continuing violation with known environmental or POTW damage – SNC.	Judicial action including penalty. Request for criminal investigation. Disconnect from sewer within 30 days of initial violation detection if IU fails to cooperate.

D. NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATIONS:

	<u>NONCOMPLIANCE</u>	<u>CIRCUMSTANCES</u>	<u>RANGE OF RESPONSE</u>
1.	Minor violation of analytical procedures.	Any instance.	NOV within 10 days of initial violation detection. Require correction.  Escalate to AO within 90 days of initial violation detection if circumstances warrant.
2.	Major violation of analytical procedures.	No evidence of intent.	NOV within 10 days of initial violation detection. Require correction.  AO within 90 days of initial violation detection.  Impose appropriate administrative penalties. D,C
3.	Major violation of analytical procedures.	Evidence of negligence or intent – SNC	AO or judicial action and penalty (possible criminal action) within 90 days of initial violation detection, depending on circumstances. Impose appropriate administrative penalties. Impose appropriate administrative penalties. Require correction.

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4. Minor violation of permit condition.	No evidence of negligence or intent.	NOV within 10 days of initial violation detection. <del>Impose appropriate administrative penalties.</del> Immediate correction required.	EC
5. Minor violation of permit condition.	Evidence of negligence or intent – SNC	AO judicial action and penalty (possible criminal action) within 90 days of SNC determination. Impose appropriate administrative penalties.	OS, D, C
6. Major violation of permit condition.	Evidence of negligence or intent – SNC.	AO or judicial action and penalty (possible criminal action) within 90 days of SNC determination. Sewer ban may be initiated if circumstances warrant.	OS, D, C
7. Potential violations.	Chemicals stored near a floor drain with no spill prevention plan in effect.	Letter within 10 days of initial violation detection informing the industry of a potential violation. Required correction within 30 days.  Escalate to NOV then AO if condition persists.  Impose appropriate administrative penalties.	EC  EC, OS, D  D, C
8. Entry denial.	Entry denied or consent withdrawn; copies of records denied – SNC.	Obtain warrant and return to IU.	EC, OS, D

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C - Municipal Utilities Commission

**LIGHTLE, BEEBE, RANEY, BELL AND HUDGINS**

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J. E. LIGHTLE, SR. (1932-45)  
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MIKE BEEBE  
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A. WATSON BELL  
ROBERT HUDGINS

February 21, 1992

Arkansas Department of Pollution  
Control & Ecology  
P. O. Box 8913  
Little Rock, AR 72219-8913

Attn: Allen R. Gilliam NPDES  
Pretreatment Coordinator

RE: Searcy, Arkansas, Pretreatment Program,  
NPDES Permit No. AR0021601

Dear Coordinator:

I am the attorney for the Searcy Board of Public Utilities. This letter is an opinion regarding the requisite city authority under Section 403.9(b)(1) and Section 403.8(f) of applicable regulations promulgated under the Federal Clean Water Act.

In my opinion upon the passage of the updating pretreatment ordinance, the City through the Searcy Board of Public Utilities will have the necessary authority and powers to carry out the program as set forth in Section 403.8 of the applicable regulations.

When the Searcy City Council enacts the updating pretreatment ordinance subject to the approval of the Arkansas Department of Pollution Control & Ecology and the United States Environmental Protection Agency, the Searcy Board of Public Utilities, in my opinion, will have requisite authority and powers to enforce the pretreatment program.

The Arkansas legislature has vested the authority in the cities of the State to construct, operate, and maintain their sewer systems, delegating the requisite authority, in my opinion, to establish a pretreatment program as required by Section 403.8(f). It is, therefore, my opinion that the Searcy Board of Public Utilities can enact such a pretreatment program when authorized so to do by the updating ordinance to be enacted by the City Council of Searcy, Arkansas.

There are other ordinances in effect which give the City via the Searcy Board of Public Utilities broad general powers of regulation of its system (Ordinance #557 of January 8, 1973) and

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which require compliance with applicable federal and state laws and regulations (Section 1, Par. 1.12.1 and 1.12.2 of Ordinance #598 of August 7, 1977).

In my opinion, when the updated ordinance is enacted the City via the Searcy Board of Public Utilities will have all of the requisite powers under Section 403.8(f)(1) to properly administer the pretreatment program. The specific provisions of the Ordinance creating such authority are set forth as follows, to-wit:

<u>Section of Regulations</u>	<u>Brief Description</u>	<u>Citation to City's Authority (To be found in Ordinance 678, references are to section of the Ordinance)</u>
403.8(f)(1)(i)	Denial of Pollutant contribution	2.1 General Discharge Prohibitions 2.4 Specific Pollutant Limitations 4.2 Permits 5.1 Harmful Contributions 5.2 Revocation of Permits
403.8(f)(1)(ii)	Requirement of compliance with applicable standards	2.2 Federal Categorical Pretreatment Standards 2.3 Modification of Standards 2.4 Specific Pollution Limitations 2.5 State Requirements 2.6 City's Right of Revision
403.8(f)(1)(iii)	Control contribution by permit	4.2 Wastewater Contribution Permits (with all subsections)
403.8(f)(1)(iv)	Compliance schedules and notices of self monitoring reports	4.2.4(f) Compliance schedule 4.2.2(i) Application compliance schedule 4.3 Reporting Requirements for Permittee

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<u>Section of Regulations</u>	<u>Brief Description</u>	<u>Citation to City's Authority (To be found in proposed ordinance, references are to section of the ordinance)</u>
403.8(f)(1)(v)	Inspection and monitoring	4.4 Monitoring Facilities 4.5 Inspection and Sampling
403.8(f)(1)(vi)(A)	Legal and equitable remedies available	5.2 Revocation of Permits 5.3 Compliance Order 5.4 Show Cause Hearing 5.5 Injunctive Relief 6.1 Administrative Fines 6.2 Civil and Criminal penalties 6.4 Cumulative nature of remedies
403.8(f)(1)(vi)(B)	Halt harmful discharge	2.1 General Discharge Prohibitions 5.1 Harmful Contributions 5.2 Revocation of Permits
403.8(f)(1)(vii)	Confidentiality of trade secrets	4.7 Confidential Information

The pretreatment program requirements will be implemented and pretreatment standards applied to individual industrial users pursuant to this ordinance, which utilizes a permit system and pursuant to the surcharge ordinance.

The Searcy Board of Public Utilities intends to require that all reporting and monitoring standards be kept and to exercise its rights of admission, inspection and monitoring. The enforcement method to be used can be denials of permits and hookups, refusal to allow discharge, administration sanctions, and court action where necessary asking for injunctive and damage relief.

Sincerely,

ORIGINAL SIGNED BY  
DONALD P. RAHEY  
Donald P. Rahey

DPR:raa  
cc: Mr. Clarence Buckner  
Mr. Dan Dawson  
Mr. Ron Pierce  
Mr. Dewayne Treat

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**40 CFR 403.8(f)(1)**

**Ord #26-2009**

403.8(f)(1)(i)

10.08.02(1) & 10.08.02(2.5)

403.8(f)(1)(ii)

10.08.02(2.1) & 10.08.02(2.2)

403.8(f)(1)(iii)

10.08.05(1) & 10.08.05(2)

403.8(f)(1)(iv)

10.08.05(3) & 10.08.05(3)(B)(4)

403.8(f)(1)(v)

10.08.05(4) & 10.08.05(5)

403.8(f)(1)(vi)

10.08.06 & 10.08.07

403.8(f)(1)(vii)

10.08.05(6)

# Main (South) Plant POTW'S ALLOWABLE SIU LOADING

PARAMETER	MAHL LBS/DA	MAHC mg/l	BASIS	DOMESTIC LOADING LB/DA	ALLOWABLE SIU LOADING LB/DA
Cadmium, Total	1.17	0.0541	Sludge	0.01	0.867
Copper, Total	21.6	1.00000	Inhibition	0.35	15.848
Lead, Total	12.68	0.5872	Sludge	0.08	9.435
Mercury, Total	0.212	0.00098	Water Quality	0.0032	0.013
Nickel, Total	9.21	0.42642	Sludge	0.1	6.812
Selenium, Total	1.842	0.0853	Sludge	0.03	0.69
Silver, Total	5.4	0.25000	Inhibition	0.04	4.014
Zinc, Total	6.48	0.30000	Inhibition	2.8	2.055
Chromium, Total	21.6	1.00000	Inhibition	0.16	16.04
Cyanide, Total	2.16	0.10000	Inhibition	0.16	1.62
Arsenic	1.54	0.0711	<del>Inhibition</del>	0.02	0.52
Molybdenum	1.382	0.06396	Sludge		1.04
Beryllium	2.16	0.10000	Inhibition	0	1.615

Safety Factor

25%

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## North Plant POTW'S ALLOWABLE SIU LOADING

PARAMETER	MAHL LBS/DA	MAHC mg/l	BASIS	DOMESTIC LOADING LB/DA	ALLOWABLE SIU LOADING LB/DA
Cadmium, Total	0.055	0.00558	Water Quality	0.0049	0.0446
Copper, Total	0.3137	0.03185	Water Quality	0.2564	0.0259
Lead, Total	0.1068	0.01084	Water Quality	0.0156	0.0805
Mercury, Total	0.0003	0.00003	Water Quality	0.0029	0
Nickel, Total	1.6466	0.16719	Water Quality	0.0613	1.4206
Selenium, Total	$\phi$ .1699	$\phi$ .0112	Water Quality	0.0489	
Silver, Total	0.0368	0.00373	Water Quality	0.0049	0.0282
Zinc, Total	1.6518	0.16771	Water Quality	1.3798	0.1068
Chromium, Total	7.3772	0.74899	Sludge	0.0977	6.5417
Cyanide, Total	$\phi$ .1844	$\phi$ .01872	Water Quality	0.0977	N/A
Arsenic	$\phi$ .3361	$\phi$ .03412	Infiltration	0.0049	N/A
Molybdenum	0.3025	0.03071	Sludge		0
Beryllium	$\phi$ .1165	$\phi$ .01183	Water Quality		0

Safety Factor

10%

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# National Pretreatment Program

(40 CFR 403)



## Pretreatment Streamlining Rule Fact Sheet 8.0: Slug Control Plans

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### Summary

The Pretreatment Streamlining Rule provides flexibility for publicly owned treatment works (POTWs) to determine how frequently to evaluate industrial users (IUs) for the need for slug control plans, on the basis of local conditions after the initial assessment has been made. The rule also clarifies that an actual slug control plan (e.g., the physical document itself) is not the POTW's only option for controlling facilities with a higher potential for Slug Discharges; instead, the POTW may choose to require that the significant industrial user (SIU) take specific, preventative actions instead of requiring the development of a slug control plan. Those preventative actions and any slug control plan development requirements must be included in the SIU's control mechanism.

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### What is a Slug Discharge?

A Slug Discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's ordinances, local limits or permit conditions. POTWs are required to ensure that IUs have policies and procedures in place to prevent or mitigate the effects of Slug Discharges.

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### What other measures can be considered as slug control plans?

EPA recognizes that a number of existing requirements under other statutes and regulations could serve as components of a plan to control Slug Discharges. For example, Spill Prevention, Control, and Countermeasures plans or existing Emergency and Hazardous Chemical Inventory reports may address some components of a slug control plan. Please note that a slug control plan is a specific type

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of best management practice (BMP); more information on BMPs can be found in Fact Sheet 7.0: Best Management Practices (EPA-833-F-06-013).

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**What is the minimum frequency for POTWs to evaluate an SIU's need for a slug control plan?**

EPA has removed the required minimum frequency (once every two years) for POTWs to conduct SIU evaluations for the need for slug control plans. However, the Streamlining Rule specifies that POTWs must evaluate, at least once, the SIU's need for a slug control plan or other action to control Slug Discharges. For IUs identified as significant prior to November 14, 2005, this evaluation must be conducted at least once by October 14, 2006; additional SIUs must be evaluated within one year of being identified as significant.

EPA expects POTWs to evaluate all of their SIUs at least once for the need for a slug control plan, conduct follow-up evaluations for facilities not required to develop a slug control plan or take other actions as necessary, and inspect each SIU annually to determine the adequacy of and compliance with existing procedures and control measures.

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**What factors should the POTW consider in determining how often to conduct evaluations at individual facilities concerning whether a slug control plan is needed?**

Each POTW will need to determine the evaluation frequency appropriate for its program and for individual facilities. The POTW will need to consider whether changes have occurred that would necessitate a reevaluation of the need for slug control. EPA recommends that POTWs consult with the Agency's guidance document, Control of Slug Loadings to POTWs (1991) (<http://www.epa.gov/npdes/pubs/owm021.pdf>), which suggests different ways to prioritize industrial facilities according to Slug Discharge potential and strategies for assessing the adequacy of existing plans and programs. The guidance document highlights the following as the most significant factors to consider: (1) quantity and types of materials used or stored at an IU and their potential for causing violation of local limits or the general or specific prohibitions; (2) potential for such materials to enter the sewer system and cause damage (i.e., whether control measures are in place); and (3) adequacy of existing controls to prevent any potential slug loading.

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**What elements are required in a slug control plan?**

The minimum elements required in a slug control plan are (1) a description of Discharge practices, (2) a description of all stored chemicals at the facility, (3) procedures for immediately notifying the POTW of the Slug Discharge and providing written follow-up notification, and (4) a variety of procedures (e.g., inspection and maintenance of chemical storage areas) for preventing adverse impacts from any accidental spills (40 CFR 403.8(f)(2)(vi)(A) to (D)).

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**Slug control requirements must be included in SIU control mechanisms, if applicable.**

The final rule at 40 CFR 403.8(f)(1)(iii)(B)(6) requires that applicable slug control requirements be included in the SIU's control mechanism. The rule allows POTWs to incorporate specific, preventative actions into an SIU's control mechanism instead of requiring the development of a slug control plan.

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**IUs are required to notify the POTW immediately of any changes at its facility affecting the potential for a Slug Discharge.**

The final rule at 40 CFR 403.8(f)(2)(vi) and 40 CFR 403.12(f) requires that IUs must notify the POTW immediately of changes that occur at the facility affecting the *potential* for a Slug Discharge, thereby allowing the POTW to reevaluate the need for a slug control plan or other actions to prevent such discharges.

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**POTWs must document that facilities have been evaluated for the need for a slug control plan.**

The POTW must be able to demonstrate that each of its SIUs has been evaluated at least once. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User. EPA suggests that, where a slug control plan or other action was not deemed necessary, the POTW develop a plan to re-evaluate the SIU as needed. The POTW may choose a specified frequency level to re-evaluate the SIU, or it may choose to re-evaluate the facility following a notification of changed Discharge pursuant to 40 CFR 403.12(j) or 40 CFR 403.8(f)(2)(vi).

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**What steps are required to implement this Streamlining provision?**

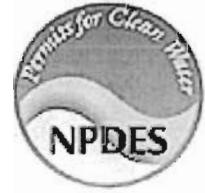
Once the POTW has determined what program revisions are necessary to incorporate this provision of the Streamlining Rule, it will submit the modifications to the Approval Authority (either the state, if it has Pretreatment Program authority, or the EPA Regional Administrator) for approval. The program 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. States and POTWs should make these changes as soon as possible, and EPA and state National Pollutant Discharge Elimination System (NPDES) permitting authorities should revise NPDES permits to incorporate adopted changes.

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# 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

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

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**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.

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**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.

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**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.

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**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.

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

**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.

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**What steps are required to implement these Streamlining provisions?**

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.

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