

PUBLIC WORKS MEMORANDUM
#4-2024

DATE: Jan. 8, 2024

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager *Hmg*
Jason Loveland, Interim Deputy City Manager *AL2*

FROM: Kent Kisselman, PE – Director of Public Works *HK*
Tamara Moon – Environmental Manager

SUBJECT: CB-2017 – Industrial Pretreatment Ordinance Amendments

PURPOSE

To consider CB-2017, an ordinance on first reading updating Article 15 of Chapter 16 of the Municipal Code to align the Industrial Pretreatment Program with federal requirements and to approve the City's updated Enforcement Response Plan.

BACKGROUND

The Industrial Pretreatment Program (IP Program) is a required element of the City's wastewater discharge permit and is intended to protect the Wastewater Treatment Plant and wastewater collection system from harmful substances. The City has had an IP Program since 1986.

The IP Program is implemented under the Federal Clean Water Act. In Colorado, this program is overseen by Region 8 of the Environmental Protection Agency (EPA). As such, the Municipal Code's IP Program regulations must align with the program requirements as documented in the Code of Federal Regulations.

In 2017 and 2021, the City was subject to inspection of its IP Program by staff from EPA Region 8. During these inspections, it was noted that minor corrections to the Municipal Code were required to bring the program up to date with federal code. These include:

- Section 16-15-2(a)(24) – replace the word “promulgation” with “proposal”
- Section 16-15-2(a)(56) – add, “The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.”
- Add Section 16-15-6(e)(5) – “The City has the authority to deny new or increased contributions of pollutants, or changes in the nature of pollutants from an existing user, to the POTW (Publicly Owned Treatment Works) by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.”
- Section 16-15-7(c)(2) – Update the City's limits for industrial discharges to the POTW. New limits are as follows:

Pollutant	MAXIMUM CONTRIBUTION	
	Symbol	Daily Maximum mg/L
Arsenic	As	0.551
Cadmium	Cd	0.102
Chromium	Cr	18.308
Copper	Cu	9.797
Lead	Pb	1.570
Mercury	Hg	0.003
Molybdenum	Mo	0.686
Nickel	Ni	7.905
Selenium April 1 – October 31	Se	1.595
Selenium November 1 – March 31	Se	3.275
Silver	Ag	2.056
Zinc	Zn	5.036

Additionally, in 2021 the City approved and began implementing new standards and specifications for construction activities. These allow for certain types of hydromechanical grease interceptors. To align the IP Program requirements with the most recent standards and specifications, the following changes are being proposed:

- Add Section 16-15-2(a)(30) – “Hydromechanical grease interceptor. A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and operate based on the Bernoulli’s principal, using interior baffling or barriers to reduce kinetic energy, and separate solids and grease. This fixture shall be sized according to the currently approved Uniform Plumbing Code and the City’s currently approved standards and specifications.”
- Update paragraph numbering in Section 16-15-2(a)
- Section 16-15-14 – Increase the permit fees for industrial users
 - Permitted Non-Significant Industrial User: from \$250 to \$500
 - Significant or Categorical Industrial User: from \$500 to \$1,000
- Section 16-15-25(b)(1)(i)(1) – add the words, “or hydromechanical”
- Section 16-15-25(b)(1)(i)(3) – add the words, “or hydromechanical” in first sentence; remove the word “gravity” in the second sentence
- Remove Section 16-15-25(b)(1)(i)(5)
- Update paragraph numbering in Section 16-15-25(b)(1)(i)
- Section 16-15-25(b)(1)(i)(6) – remove the word “gravity”
- Section 16-15-25(b)(1)(ii)(1) – add the words, “and hydromechanical” to the first sentence; add the words, “or hydromechanical” to the last sentence
- Section 16-15-25(b)(1)(ii)(3) – remove the word “gravity”
- Section 16-15-25(b)(1)(ii)(5) – remove the word “gravity”

In addition to the ordinance revisions, the City is also seeking approval of its Enforcement Response Plan (ERP). This document has been updated and revised to meet the requirements of the federal regulations pertaining to industrial pretreatment program implementation and to more closely align with the Municipal Code. This document is considered a program modification by the EPA and as such requires approval by City Council. The ERP is referenced in Section 16-15-27(a) and is attached as Exhibit A to CB-2017.

BUDGET/TIME IMPLICATIONS

There are no financial impacts to the City.

If CB-2017 is approved on first reading, a public hearing and second reading of the proposed ordinance will be scheduled for the Feb. 12, 2024 City Council meeting to allow compliance with the EPA's 30-day publication requirement.

STAFF RECOMMENDATION

Staff recommends approval of CB-2017 on first reading.

STAFF REFERENCE

If Council Members have any comments or questions, they may contact Director of Public Works Kent Kisselman at 303.450.4005 or kkisselman@northglenn.org.

SPONSORED BY: MAYOR LEIGHTY

COUNCIL MEMBER'S BILL

ORDINANCE NO.

No. CB-2017
Series of 2024

Series of 2024

A BILL FOR AN ORDINANCE AMENDING ARTICLE 15 OF CHAPTER 16 OF THE NORTHGLENN MUNICIPAL CODE REGARDING THE CITY'S INDUSTRIAL PRETREATMENT PROGRAM

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 16-15-2, subsection (a) of the Northglenn Municipal Code is repealed and reenacted to read as follows:

(a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated:

(1) **Act or "the Act"**. The Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. § 1251 to 1387, as amended.

(2) **Approval Authority**. The State Director in an NPDES state with an approved State Pretreatment Program or the Regional Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

(3) **Authorized Representative of the Industrial User.**

(i) If the industrial user is a corporation:

(1) The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Industrial Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) If the industrial user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(iii) If the industrial user is a federal, state, or local governmental facility: a city or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in subsections (i) through (iii) above, may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

(4) **Best Management Practice (BMP).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 16-15-7. BMPs are Pretreatment Standards. BMPs may include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(5) **Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20°C) expressed in milligrams per liter (mg/L).

(6) **Building Drain.** That part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

(7) **Building Sewer.** The extension from the building drain to the public sewer. Also called "building lateral" or "building connection".

(8) **Bypass.** The intentional diversion of wastestreams from any portion of an industrial user's treatment facility pursuant to 40 CFR Section 403.17.

(9) **Categorical Industrial User.** All industrial users subject to Categorical Pretreatment Standards under 40 CFR Section 403.6 and 40 CFR chapter I, subchapter N.

(10) **Categorical Pretreatment Standard or Categorical Standard.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) or the Act (33 U.S.C. Section 1317) that apply to a specific category of industrial users and that appear in 40 CFR chapter I, subchapter N, Parts 405-471.

(11) **Chemical Oxygen Demand (COD).** The measure of the oxygen equivalent to the portion of organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant under laboratory procedures, expressed in milligrams per liter.

(12) **City.** The City of Northglenn.

(13) **Colorado Discharge Permit System (CDPS).** The State of Colorado program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into waters of the State pursuant to Section 25-8-101 et seq., CRS, 1973 as amended and 402 of the Clean Water Act (33 U.S.C. §1342).

(14) **Composite sample.** A representative flow-proportioned sample generally collected within a twenty-four (24) hour period and combined according to flow. Time-proportional sampling may be approved or used by the City where time-proportional samples are believed representative of the discharge.

(15) **Control Authority.** The City of Northglenn.

(16) **Control Manhole.** A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

(17) **Control Point.** The point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

(18) **Cooling Water.** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(19) **Direct Discharge.** The discharge of wastewater directly to the waters of the State of Colorado.

(20) **Director.** Unless otherwise specified, the City of Northglenn Director of Public Works/Utilities, who is designated by the City to supervise the operation of the Publicly Owned Treatment Works and who is charged with certain duties and responsibilities of this Article, or his duly authorized representative.

(21) **Domestic (Sanitary) Wastes.** Liquid wastes: (a) from the non-commercial preparation, cooking, and handling of food, or (b) containing only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

(22) **Easement.** An acquired legal right for the specific use of land owned by others.

(23) **Environmental Protection Agency, or EPA.** The U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(24) **Existing Source.** An industrial user which is in operation at the time of promulgation—PROPOSAL of federal Categorical Pretreatment Standards and any industrial user not included in the definition of "New Source".

(25) **FOG (Fats, Oil and Grease).** Non-petroleum organic polar compounds

derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical procedures established in the 40 CFR Part 136.

(26) **Grab Sample.** A sample which is taken from a waste stream on a one-time basis with no regard to the flow and over a period of time not to exceed fifteen (15) minutes.

(27) **Gravity grease interceptor.** A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and are designed for gravity separation considering calculated retention times and volumes for each facility; such interceptors are at least 750 gallons, include baffle(s) and a minimum of two compartments. This is an in-ground interceptor that is located outside the facility. See Section 16-15-25(b) of this Article.

(28) **Harmful contribution.** An actual or threatened discharge of water or wastes to the POTW which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes Pass Through or Interference to the POTW or causes the City to violate any condition of its CDPS permit.

(29) **Holding tank waste.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(30) **HYDROMECHANICAL GREASE INTERCEPTOR.** A PLUMBING APPURTENANCE OR APPLIANCE THAT IS INSTALLED IN A SANITARY DRAINAGE SYSTEM TO INTERCEPT FOG (FATS, OIL AND GREASE) FROM A WASTEWATER DISCHARGE AND OPERATE BASED ON THE BERNOULLI'S PRINCIPAL, USING INTERIOR BAFFLING OR BARRIERS TO REDUCE KINETIC ENERGY, AND SEPARATE SOLIDS AND GREASE. THIS FIXTURE SHALL BE SIZED ACCORDING TO THE CURRENTLY APPROVED UNIFORM PLUMBING CODE AND THE CITY'S CURRENTLY APPROVED STANDARDS AND SPECIFICATIONS.

(31) **Indirect Discharge.** Indirect Discharge. The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act (including holding tank waste discharged into the system).

(32) **Industrial.** Of or pertaining to industry, manufacturing, commerce, trade, or business as distinguished from domestic or residential.

(33) **Industrial Discharge Permit.** The document or documents issued to an industrial user by the City in accordance with the terms of this Article that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW as set forth in Section 16-15-10 of this Article.

(34) **Industrial user.** A source of Indirect Discharge.

(35) **Industrial wastes or non-domestic wastes.** The liquid or solid wastes

from industrial manufacturing processes, trade or business activities producing non-domestic or non-residential sewage as distinct from domestic wastewater.

(36) **Instantaneous limit.** The maximum concentration of a pollutant or measurement of a pollutant property allowed to be discharged at any time. For pollutants, compliance is typically determined by use of a grab sample.

(37) **Interference.** A discharge, which alone or in conjunction with a discharge or discharges from other sources, both:

(i) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and

(ii) Therefore, is a cause of violation of any requirement of the POTW's CDPS permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

(38) **Local limit.** Specific discharge limits and BMPs developed, applied, and enforced upon industrial users to implement the general and specific discharge prohibitions listed in Section 16-15-7. Local limits are Pretreatment Standards.

(39) **Natural outlet.** Any outlet, including storm sewers and combined sewer overflows, into a water course, pond, ditch, lake or other body of surface or ground water.

(40) **New Source.**

(i) The term **New Source** means any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(A) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

(C) The production or wastewater generating processes of the

building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source should be considered.

(ii) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (i)(B) or (i)(C) of this Section, but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(A) Begun, or caused to begin as part of a continuous onsite construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(41) **Normal domestic strength wastewater.** Wastewater, when analyzed in accordance with procedures established by the EPA pursuant to 40 CFR Part 136, as amended, contains no more than two hundred fifty (250) mg/l of TSS and/or three hundred (300) mg/l of BOD.

(42) **Non-contact cooling water.** Cooling Water that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(43) **Non-Significant Industrial User.** Any industrial user which does not meet the definition of a Significant Industrial User, but is otherwise required by the City through permit, order or notice to comply with specific provisions of this Article and is so notified by the City.

(44) **Overload.** The imposition of organic or hydraulic loading on the POTW in

excess of its engineered design capacity.

(45) **Pass Through.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's CDPS permit (including an increase in the magnitude or duration of a violation).

(46) **Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

(47) **Petroleum Oil, Grease and Sand (POGS).** Any hydrocarbon or petroleum product including oils and greases, and/or sand, grit, gravel or any other aggregate.

(48) **pH.** The intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution and reported as Standard Units (SU).

(49) **Pollution.** The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water or the environment.

(50) **Pollutant.** Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive material, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor) discharged into or with water.

(51) **POTW Treatment Plant.** That portion of the POTW designed to provide treatment to wastewater.

(52) **Pretreatment or treatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).

(53) **Pretreatment Requirements.** Any substantive or procedural requirement related to Pretreatment, other than a Pretreatment Standard imposed on an industrial user.

(54) **Pretreatment Standard, National Pretreatment Standard or Standard.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307 (b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to Section 16-15-7 and includes the General Prohibitions, Specific Prohibitions, local limits and Best Management

Practices that are or may be established by the City. In cases of differing Standards or regulations, the more stringent shall apply.

(55) **Process wastewater.** Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

(56) **Publicly Owned Treatment Works (POTW).** A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are by contract or agreement with the City, users of the City's POTW. THE TERM ALSO MEANS THE MUNICIPALITY AS DEFINED IN SECTION 502(4) OF THE ACT, WHICH HAS JURISDICTION OVER THE INDIRECT DISCHARGES TO AND THE DISCHARGES FROM SUCH A TREATMENT WORKS.

(57) **Sand/oil separator.** A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept sand (or other aggregate) and petroleum-based oil and grease from a wastewater discharge and are designed considering retention times, volumes in gallons calculated for each facility, and gravity separation; such interceptors include baffle(s) and a minimum of two compartments. See Section 16-15-25(b) of this Article.

(58) **Sanitary sewer.** A sewer that carries liquid and water-carried wastes from the residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally. This definition shall also include, but not be limited to the terms "public sewer," "sewer system," "sewer," and "collection line."

(59) **Sector control program.** A program to control specific pollutants from industrial users with similar waste generation or treatment through the implementation of Pretreatment Standards and Requirements, including Best Management Practices. These sector control program requirements may be found at Section 16-15-25 of this Article.

(60) **Severe property damage.** Any substantial physical damage to property, any damage to the treatment facilities which causes them to become inoperable, or any substantial and permanent loss of natural resources. Severe property damage does not include economic losses caused by delays in production.

(61) **Shall, will, may.** "Shall" and "will" are mandatory; "may" is permissive.

(62) **Significant Industrial User.** Any industrial user which:

(i) Is subject to Categorical Pretreatment Standards under 40 CFR Section 403.6 and 40 CFR chapter I, subchapter N; or

(ii) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(63) **Significant Noncompliance.** A Significant Industrial User that meets any of the following criteria or any industrial user that meets paragraphs (iii), (iv), or (viii) shall be in Significant Noncompliance:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken or the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits.

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

(iii) Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

(64) **Slug discharge.** A discharge that is 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 this Article, including a discharge which exceeds the hydraulic or design capacity of an industrial users treatment system or any part of the treatment unit.

(65) **Standard Industrial Classification (SIC).** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, as amended.

(66) **State.** State of Colorado.

(67) **Storm Drain.** Every pipe, culvert, flume, ditch, gutter, storm sewer, cistern, tank, drain, lake, pond, stream, ravine, gully or other facility or natural feature, that contains, holds, transports, diverts, channels, impounds, or drains water, into which any naturally occurring stormwater runoff within the City may seep, percolate or flow; and every street, sidewalk, alley, gutter, roof, parking lot, yard, field, driveway, patio and other surface within the City across which any naturally occurring stormwater runoff may seep, percolate or flow.

(68) **Stormwater.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation, including snowmelt.

(69) **Total Suspended Solids (TSS).** The total suspended matter, expressed in milligrams per liter, that floats on the surface of, or is suspended in water, wastewater, or other liquids, and that is removable by laboratory filtering in accordance with procedures approved in 40 CFR Part 136, as amended.

(70) **Toxic pollutant.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of Section 307(a) of the Act (33 U.S.C. §1317(a)) or as otherwise listed at 40 CFR Part 122, Appendix D.

(71) **Wastewater.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(72) **Watercourse.** A natural or artificial channel for the passage of water either continuously or intermittently.

(73) **Waters of the State.** Any and all surface and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

Section 2. Section 16-15-6, subsection (e) of the Northglenn Municipal Code is amended

by the addition thereto of a new sub-subsection (5) to read as follows:

(5) The City has the authority to deny new or increased contributions of pollutants, or changes in the nature of pollutants from an existing user, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.

Section 3. Section 16-15-7, subsection (c)(2) of the Northglenn Municipal Code is amended to read as follows:

(2) No Significant Industrial User or other permitted non-significant industrial user shall discharge wastewater that exceeds the following limits:

MAXIMUM CONTRIBUTION

<u>POLLUTANT</u>	<u>SYMBOL</u>	<u>Daily Maximum mg/L</u>
Arsenic	As	0.250 0.551
Cadmium	Cd	0.170 0.102
Chromium	Cr	0.68 18.308
Copper	Cu	0.86 9.797
Lead	Pb	5.82 1.570
Mercury	Hg	0.0007-0.003
Molybdenum	Mo	0.620 0.686
Nickel	Ni	3.64 7.905
Selenium APRIL 1 – OCTOBER 31	Se	0.076 1.595
SELENIUM NOVEMBER 1 – MARCH 31	Se	3.275
Silver	Ag	0.26 2.056
Zinc	Zn	8.07 5.036

All pollutants shown in the Table are total.

Section 4. Section 16-15-14 of the Northglenn Municipal Code is amended to read as follows:

Section 16-15-14. Industrial User Fees. Permit fees for Significant Industrial Users and Permitted Non-Significant Industrial Users are listed in the following table. The fee includes permit issuance and initial monitoring by the City.

Permitted Non-Significant Industrial Users	\$250-\$500.00
Significant OR CATEGORICAL Industrial User	\$500 \$1,000.00

In addition, to recover the cost to the City of implementing the program established by this Article, the City may adopt charges and fees including, but not limited to the following:

- (a) Fees for monitoring, inspection and surveillance activities;
- (b) Fees for reviewing accidental discharge procedures and construction;
- (c) Fees for permit applications;
- (d) Fees for filing appeals and other legal expenses;
- (e) Fees for consistent removal by the City of pollutants as allowed under 40 CFR Section 403.7; and
- (f) Such other fees as the City may deem necessary to administer and enforce the requirements contained herein.

Section 5. Section 16-15-25, subsection (b) of the Northglenn Municipal Code is amended to read as follows:

(b) Program Descriptions. All facilities subject to this section must comply with the requirements in the FOG Sector Control Program which includes both the requirement for installation and operation of a sand/oil interceptor and the Best Management Practices.

(1) Fats, Oil and Grease (FOG) Program Requirements. The requirements established in this Section shall apply to facilities subject to the FOG Sector Control Program established by the City. Non-domestic dischargers where preparation, manufacturing, or processing of food occurs include, but are not limited to, restaurants, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops, schools, nursing homes and other facilities that prepare, service, or otherwise make foodstuff available for consumption. These users shall install and maintain a gravity grease interceptor as directed by the City.

(i) General Control Requirements.

(1) A gravity OR HYDROMECHANICAL grease interceptor shall be required when, in the judgment of the City, it is necessary for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the wastewater collection system or cause or contribute to

Interference or Pass Through.

(2) It shall be the responsibility of the industrial user and owner of the property, business or industry or an Authorized Representative of the Industrial User to contact the City for the purpose of obtaining a plan review. The plan review shall determine the need, size, location, and other requirements of the interceptor required to control discharges into the POTW. Written approval from the City must be obtained prior to installation of the interceptor. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article.

(3) The design and sizing of gravity OR HYDROMECHANICAL grease interceptors shall be in accordance with the FOG Sector Control Program in this Article. The ~~gravity~~ GREASE interceptor shall be designed, sized, installed, maintained and operated so as to accomplish their intended purpose of intercepting pollutants from the industrial user's wastewater and preventing the discharge of such pollutants to the City's wastewater collection system.

(4) Upon change of ownership of any existing facility which would be required to have an interceptor under this Section, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning grease interceptor is installed.

~~(5) Hydromechanical grease interceptors shall not be permitted in lieu of gravity grease interceptors to comply with the requirements of this article~~

(5) Toilets, urinals and similar fixtures shall not waste through a grease interceptor. Such fixtures shall be plumbed directly into the building sewer and waste system.

(6) All fixtures not equipped with a garbage disposal (garbage grinder) which are connected to a ~~gravity~~ GREASE interceptor shall be equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the gravity grease interceptor.

(7) The industrial user must ensure interceptors are easily accessible for inspection, cleaning, and removal of FOG.

(8) The industrial user must maintain interceptors at their

expense and keep in efficient operating condition at all times by the regular removal of accumulated FOG.

(ii) Required Maintenance.

(1) Gravity AND HYDROMECHANICAL grease interceptors shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the fats, oil and grease from the facility's wastewater and prevent the discharge of said materials into the City's wastewater collection system. A gravity OR HYDROMECHANICAL grease interceptor shall be serviced at a minimum every ninety (90) days, or more often if required by the City.

(2) The City may require more frequent cleaning than that prescribed in 1) above. A variance from the requirement in 1) above may be obtained if the industrial user can demonstrate less frequent cleaning is sufficient.

(3) Maintenance of ~~gravity~~-GREASE interceptors shall be done in a workman-like manner only by a business/professional normally engaged in the servicing of such plumbing fixtures.

(4) In the event an interceptor is not properly maintained by the industrial user, owner, lessee, or other authorized representative of the facility, the City may authorize such maintenance work be performed on behalf of the industrial user. The costs of such maintenance shall be billed directly to the tenant/owner and shall become part of the charges due and owing to the City and shall constitute a lien against the property until paid in full.

(5) Biological treatment or enzyme treatment shall not be a substitute for the servicing of ~~gravity~~-GREASE interceptors at the frequency determined by the City. Use of enzymes to emulsify FOG is prohibited.

(6) The industrial user must document each pump-out with a waste manifest or trip ticket which must be kept on site for at least three (3) years.

(7) The industrial user must take reasonable steps to assure that all waste is properly disposed of at a facility in accordance with federal, state and local regulations (i.e. through a certification by the hauler included on the waste manifest or trip ticket for each load).

(2) Petroleum Oil, Grease and Sand (POGS) Separator Requirements. The requirements established in this Section shall apply to facilities subject to the POGS

Program requirements established by the City.

Non-domestic dischargers where work or service is performed includes automotive service, machine shops, automotive care centers, auto body shops, car washes, or any other facility that generates sand, petroleum oil, grease or other petroleum product, grit, gravel or other aggregate that may discharge into a wastewater collection system. Access to the wastewater collection system is often via floor drains located inside shop areas that are not limited to non-polluting wastewater sources; such drains must be connected to a sand/oil interceptor.

All facilities subject to this Section must comply with the requirements in the POGS Sector Control Program which includes both the requirement for installation and operation of a sand/oil separator and the Best Management Practices.

(i) General Control Requirements.

(1) A sand/oil separator shall be required when, in the judgment of the City, it is necessary for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the wastewater collection system or cause or contribute to Interference or Pass Through.

(2) It shall be the responsibility of the industrial user and owner of the property, business or industry or an authorized representative of the Industrial User to contact the City for the purpose of obtaining a plan review. The plan review shall determine the need, size, location, and other requirements of the interceptor required to control discharges into the POTW. Written approval from the City must be obtained prior to installation of the separator. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article.

(3) The design and sizing of sand/oil separators shall be in accordance with the POGS Sector Control Program. The sand/oil interceptor shall be designed, sized, installed, maintained and operated so as to accomplish their intended purpose of intercepting pollutants from the industrial user's wastewater and preventing the discharge of such pollutants to the City's wastewater collection system.

(4) Upon change of ownership of any existing facility which would be required to have a separator under this Section, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning sand/oil separator is installed.

(5) Toilets, urinals and similar fixtures shall not waste through a sand/oil separator. Such fixtures shall be plumbed directly into the building sewer and waste system.

(6) The industrial user shall ensure interceptors are easily accessible for inspection, cleaning, and removal of POGS.

(7) The industrial user shall maintain separators at their expense and keep in efficient operating condition at all times by the regular removal of POGS.

(ii) Required Maintenance.

(1) Sand/oil separators shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the sand and oil from the POGS facility's wastewater and prevent the discharge of said materials into the City's wastewater collection system. A sand/oil separator shall be serviced at a minimum once every year, or more often as required by the City.

(2) The City may require more frequent cleaning. A variance from this requirement may be obtained when the industrial user can demonstrate less frequent cleaning is sufficient.

(3) Maintenance of sand/oil separators shall be done in a workman-like manner only by a business/professional normally engaged in the servicing of such plumbing fixtures.

(4) In the event a separator is not properly maintained by the industrial user, owner, lessee, or other authorized representative of the facility, the City may authorize such maintenance work be performed on behalf of the facility. The costs of such maintenance shall be billed directly to the customer and shall become part of the charges due and owing to the City and shall constitute a lien against the property until paid in full.

(5) The industrial user must document each pump-out with a waste manifest or trip ticket which must be kept on site for at least three (3) years.

(6) The industrial user must take reasonable steps to assure that all waste is properly disposed of at a facility in accordance with federal, state and local regulations (i.e. through a certification by the hauler included on the waste manifest or trip ticket for each load).

Section 6. The updated Enforcement Response Plan for the City of Northglenn's Industrial Pretreatment Program, attached hereto as **Exhibit A**, is hereby adopted.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____,
2024.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, MMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2024.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, MMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

EXHIBIT A



Industrial Pretreatment Division *Enforcement Response Plan*

09/19/2023

I. Introduction

The Environmental Protection Agency (EPA) requires Publicly Owned Treatment Works (POTWs) with an approved pretreatment program to develop and implement an enforcement response plan (ERP). In accordance with 40 CFR 403.8(f)(5), the plan must describe how the POTW will investigate instances of industrial user (IU) noncompliance, types of escalating enforcement responses, timeframes for enforcement actions, identify personnel responsible for each type of enforcement response, and describe how the ERP will maintain consistency with the approved legal authority.

II. Purpose

The purpose of the City of Northglenn's (City) ERP is to establish a clear framework for implementing an effective enforcement program and address IU noncompliance with Pretreatment Standards and Requirements. This ERP provides procedures to be followed to identify, document and respond to pretreatment violations. The procedures were developed to:

- Ensure consistency when responding to violations
- Ensure that violators return to compliance as quickly as possible
- Penalize noncompliant Industrial Users for pretreatment violations
- Deter future noncompliance

This guidance is meant to be used as a general framework for responding to violations. Circumstances regarding specific violations may dictate responses by the City that differ from those identified in this Plan.

III. Administration and Jurisdiction

All entities discharging nondomestic waste to the POTW are subject to the provisions of this ERP. The City of Northglenn has the authority to administer and implement all elements of the ERP in accordance with EPA's 40 CFR 403.8(f)(5) and the City of Northglenn's Municipal Code, Chapter 16, Article 15 *Public Sewers*.

IV. Identifying and Investigating Instances of Noncompliance

In order to investigate instances of noncompliance with the City's industrial pretreatment program, businesses must first be characterized to determine whether they are subject to the industrial pretreatment and associated sector control program regulations.

The characterization process begins with the Industrial Waste Survey (IWS) spreadsheet, which is updated on a monthly basis by the Industrial Pretreatment Specialist. Each month, businesses that obtain licenses to operate in the City are published on the City's web site. The pretreatment specialist reviews this information and adds the new business to the IWS spreadsheet. From this spreadsheet, businesses can be characterized by descriptions of services on web sites or by responses to the Industrial Waste Questionnaires (IWQs) that are submitted to the pretreatment specialist. Many businesses are characterized as domestic users through this initial screening. For businesses that are not easily identified, or for those falling under pretreatment or other sector control programs, an initial site visit is conducted by the pretreatment specialist to help in making final determinations.

Businesses that are characterized as categorical industrial users; significant industrial users; non-significant industrial users; or those falling under sector control programs such as fats, oils and grease (FOG); petroleum oils, grease and sand (POGS), and the dental amalgam sector, must meet applicable IU pretreatment standards and requirements including applicable Best Management Practices. Information about these IUs is stored in the pretreatment database to facilitate tracking of current and historical compliance.

Violations of the City's industrial pretreatment program and affiliated sector control programs can be determined in several ways including, but not limited to: scheduled and unscheduled onsite inspections of IU facilities; IU notifications to the City; IU self-monitoring reports; and scheduled or unscheduled monitoring of the IU's discharge.

V. Definition of Significant Noncompliance (SNC)

Any violation that results in SNC is subject to formal enforcement actions. An IU is in SNC if its violation meets one or more of the following criteria (40 CFR 403.8(f)(2)(viii)):

- (A) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l)
- (B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for the same pollutant parameter taken during a 6-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD₅, TSS, fats, oil, and grease; and 1.2 for all other

pollutants except pH)

- (C) Any other violation of a pretreatment Standard or Requirement as defined at 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public)
- (D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) of this section to halt or prevent such a discharge
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance
- (F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules
- (G) Failure to accurately report noncompliance
- (H) Any other violation or group of violations, which could include a violation of BMPs, that the POTW determines will adversely affect the operation or implementation of the local pretreatment program

VI. Types of Enforcement Actions

Enforcement actions may escalate from informal actions to judicial remedies should an IU fail to comply with compliance requirements. The actions listed in this section follow from least to most punitive. City Industrial Pretreatment staff may escalate enforcement actions according to this list, or by using the suggested path of response to violations listed in the Enforcement Response Guide.

Should a violation be deemed to be malicious, with intent, or causes significant damage to the POTW, the City has the authority to assess an enforcement response that is deemed to be the most appropriate for the violation. This may include Judicial or Criminal actions, without escalating response.

Informal Actions

Informal Notice

Verbal Notifications are made by telephone or in person and provide immediate notification of the violation to the IU owner or manager. Verbal notifications are used for minor, isolated violations or as an initial step in escalated enforcement response.

Warning Letters or E-mail Notifications are issued under the same circumstances as verbal notifications and may be issued instead of or as follow-up to verbal notifications.

Informal Meetings are used to gather information regarding noncompliance and to discuss methods to return to compliance. Meetings will be documented and added to the pretreatment database or IU electronic files.

Administrative Enforcement Actions

Notice of Violation (NOV)

An NOV is a written notice to the noncompliant IU that a violation has occurred. It is more stringent than an informal notice. The NOV includes a citation of the legal authority to issue a violation, describes the violation and the date that the violation occurred. The NOV requires a response on the part of the facility to correct the violation and prevent future recurrence.

Administrative Compliance Order (AO)

When the City finds that an IU has violated, or continues to violate, any provision of Article 15 *Public Sewers*, an IU Permit, or order, or any other Pretreatment Standard or Requirement, the City may issue an order to the IU directing the IU to come into compliance within a specific time. If the IU fails to meet the timeframe, sewer service may be discontinued. Administrative compliance orders may also contain other requirements to address noncompliance including additional self-monitoring and management practices to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the IU. The AO is the minimum level of enforcement used to address SNC.

Consent Order (CO)

A consent order establishes an agreement with an IU responsible for noncompliance that includes specific actions to be taken by the IU to correct the noncompliance within a time period specified in the order. The CO may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by the City and the IU.

Show Cause Hearing (SC)

A show cause hearing is a formal meeting before City Council requiring the IU to appear, explain its noncompliance, and show cause as to why the proposed enforcement actions should not be taken against the IU. The IU shall receive notice specifying the time and place of the hearing. The notice shall be served in person, or sent by registered or certified mail.

Suspension of Service

The City may suspend wastewater treatment service or revoke an Industrial Discharge Permit when, in the opinion of the City, it is necessary to stop an actual or threatened discharge that does or may present an imminent or substantial endangerment to the health or welfare of persons, the environment, causes Pass Through or Interference or causes the City to violate any condition of its Colorado Discharge Permit System (CDPS) permit. If the IU fails to comply with the suspension order, the City shall take steps deemed necessary including immediate severance of the sewer connection. The City may reinstate the Permit or wastewater treatment service upon proof of the elimination of the non-complying discharge.

Administrative Fines

When the City finds that an IU has violated, or continues to violate any provisions of

Article 15 *Public Sewers*, an IU Permit, or order, or any other Pretreatment Standard or Requirement, the City may fine the IU in an amount not to exceed one thousand dollars (\$1000) per day per violation. Such fines shall be assessed on a per-violation, per day basis. A lien against the IU's property shall be sought for unpaid charges, fines and penalties.

Judicial Enforcement Remedies

Injunctive Relief

When the City finds that an IU has violated, or continues to violate any provisions of Article 15 *Public Sewers*, an IU Permit, or order, or any other Pretreatment Standard or Requirement, the City may petition the Northglenn Municipal Court for the issuance of a temporary or permanent injunction that either requires an IU to do a required activity in accordance with Pretreatment Standards or Requirements or, to stop doing an activity.

Civil Penalties

Any IU that has violated, or continues to violate any provisions of Article 15 *Public Sewers*, an IU Permit, or order, or any other Pretreatment Standard or Requirement, shall be liable to the City for a maximum civil penalty not to exceed one thousand dollars (\$1000) per day per violation. The City may recover reasonable attorneys' fees, court costs and other enforcement associated expenses, including sampling and monitoring expenses and the cost of any actual damages incurred by the City. The amount of liability shall take into account all circumstances including, but not limited to the:

- extent of harm caused by the violation
- magnitude and duration of the violation
- economic benefit gained by the IU's violation
- corrective actions by the IU
- compliance history of the IU

Civil Fine Pass Through

If an IU's discharges cause the City to violate any condition of its CDPS Permit and the City is fined by the EPA or the State for such violation, then the IU shall be fully liable for the total amount of the fine assessed by the EPA or the State.

Criminal Prosecution

Any IU that willfully or negligently violates any provisions of Article 15 *Public Sewers* or willfully or negligently introduces any substance into the POTW that causes personal injury or property damage or knowingly makes false statements, representations or certifications in any application, record, report, plan, or other documentation shall upon conviction, be guilty of a misdemeanor, punishable as provided in Section 14-1-10(a)(2) of the City Code.

In addition to the above remedies, the City may also use other remedies it has under the provisions of Colorado law. The City may take any, all, or any combination of these actions against a noncompliant IU. Enforcement of pretreatment violations will generally be in accordance with this ERP.

VII. Personnel Responsibilities

Daily Pretreatment Program activities will be administered by the Pretreatment Specialist who is primarily under direction of the Water Resources Administrator. The Water Resources Administrator is accountable to the Public Works Superintendent who is accountable to the Director of Public Works.

The Pretreatment Specialist carries out the following enforcement responses under the guidance of the Water Resources Administrator:

- Verbal and written informal notices
- Notices of Violation
- Informal Meetings

The Public Works Superintendent is responsible for initiating the following enforcement actions at the recommendation of the Pretreatment Specialist and Water Resources Administrator:

- Show Cause Hearings
- Administrative Compliance Orders
- Consent Orders
- Referrals to the City Attorney

The City Attorney provides legal consultation as requested on consent agreements and administrative orders. The City Attorney will take the lead on all referrals for civil litigation.

VIII. Acronyms

AO:	Administrative Compliance Order
BMP:	Best Management Practices
CDPS:	Colorado Discharge Permit System
CO:	Consent Order
EPA:	Environmental Protection Agency

- ERG:** Enforcement Response Guide
- ERP:** Enforcement Response Plan
- IU:** Industrial User
- NOV:** Notice of Violation
- POTW:** Publicly Owned Treatment Works
- SC:** Show Cause Hearing
- SIU:** Significant Industrial User
- SNC:** Significant Non Compliance

IX. Enforcement Response Guide (ERG)

The City will use the ERG to provide direction in determining appropriate enforcement responses for various types of noncompliance and to ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response include: good faith of the IU; compliance history of the IU; how effective previous enforcement actions were in returning the IU to compliance; the effect of the violation on the environment or public health; the effect of the violation on the POTW.

X. Preparation, Review

Original Document		
	Name	Date
Prepared By	Elaine Hassinger	12/23/14

Document Review/Revisions		
	Name	Date
Reviewed	Tamara Moon	09/19/2023



Industrial Pretreatment Division

Enforcement Response Guide

Revision 002 - 09/19/2023

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Unauthorized Discharge Violations		
Unpermitted/Unregistered Discharge	<p>IU unaware of requirement for a permit or registration; no harm to POTW or environment</p> <p>IU unaware of requirement for a permit or registration; harm to POTW or environment</p> <p>Failure to apply for permit after notice by City</p>	<p>Phone call or personal visit with permit application or registration application</p> <p>NOV with fine AO with fine Civil Action</p> <p>NOV with fine Civil Action Criminal Action Terminate Service</p>
Non-permitted Discharge	<p>Failure to renew IU permit or registration</p> <p>IU has not submitted application within 10 days of due date</p>	<p>Phone call or personal visit; NOV</p> <p>AO with fine</p>

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Unauthorized Discharge Violations		
Unauthorized Discharge Through Manhole, Car Wash, etc.	<p>No harm to POTW or environment</p> <p>Harm to POTW or environment; Recurring</p>	<p>NOV AO with fine Civil Action Criminal Investigation</p> <p>AO with fine Civil Action Criminal Investigation</p>
Permitted user Discharging Waste Not Authorized by Permit	<p>No harm to POTW or environment</p> <p>Harm to POTW or environment; Recurring</p>	<p>NOV AO with fine Civil Action Criminal Investigation</p> <p>AO with fine Civil Action Criminal Investigation</p>
Other discharge violations	<p>Discharge of any pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority</p>	<p>AO with fine Civil Action Terminate Service Criminal Action</p>

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Effluent Discharge Limit Violations		
Exceedances of federal, state or local, discharge limits including Pretreatment Standards and Requirements	<p>Isolated, not SNC</p> <p>Isolated; SNC, but no harm to POTW, environment or public</p> <p>Isolated; SNC and harm to POTW, environment or public</p> <p>Chronic, not SNC</p> <p>Chronic; SNC, but no harm to POTW, environment or public</p> <p>Chronic; SNC and harm to POTW, environment or public</p>	<p>Phone call or personal visit</p> <p>NOV AO to develop spill prevention plan</p> <p>Show Cause Order AO with fine/cost recovery Civil Action</p> <p>NOV AO with fine</p> <p>NOV AO with fine</p> <p>AO with fine Show Cause Order Civil Action Terminate Service</p>

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Effluent Discharge Limit Violations		
Discharge of a substance that causes Interference or Pass Through	Isolated; SNC, but no harm to POTW, environment or public	AO to develop spill prevention plan AO with fine/cost recovery Show Cause Order Civil Action
	Isolated; SNC and harm to POTW, environment or public	Show Cause Order AO with fine/cost recovery Civil Action Criminal Prosecution
	Chronic; SNC, but no harm to POTW, environment or public	AO with fine Show Cause Order Civil Action Terminate Service
	Chronic; SNC and harm to POTW, environment or public	AO with fine Show Cause Order Civil Action Terminate Service Criminal Action

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Effluent Discharge Limit Violations		
Failure to comply with required sector control program BMPs (FOG, Dental Amalgam)	Isolated; SNC, but no harm to POTW, environment or public	AO to develop spill prevention plan AO with fine/cost recovery Show Cause Order Civil Action
	Isolated; SNC and harm to POTW, environment or public	Show Cause Order AO with fine/cost recovery Civil Action Criminal Prosecution
	Chronic; SNC, but no harm to POTW, environment or public	AO with fine Show Cause Order Civil Action Terminate Service
	Chronic; SNC and harm to POTW, environment or public	AO with fine Show Cause Order Civil Action Terminate Service Criminal Action

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Monitoring, Reporting and Recordkeeping Violations		
Self-Monitoring Reporting Violation	Report is improperly signed or certified; isolated incident	Phone call, warning letter or personal visit
	Report is improperly signed or certified after notice by PS; SNC	AO AO with fine
	Late Report; Not SNC (< 5 days late)	Phone call or personal visit
	Late Report; Not SNC (5 to 30 days late)	NOV
	Late Report; SNC (> 30 days late)	AO AO with fine
	Late Report; chronic SNC	AO with fine Civil Action Terminate Service Criminal Action
	Falsification of a report	Criminal Action Terminate Service

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Monitoring, Reporting and Recordkeeping Violations		
Failure to notify	Failure to report a discharge violation within 24-hours of discovery; no harm to POTW, public or environment	NOV AO
	Failure to report a discharge violation within 24-hours of discovery; SNC, harm to POTW, public or environment	AO with fine/cost recovery Civil Action
	Failure to report a slug discharge, no harm to POTW, public or environment	NOV AO
	Failure to report a slug discharge; SNC, harm to POTW, public or environment	AO with fine/cost recovery Civil Action
	Failure to report spill or change in discharge; no harm to POTW, public or environment	NOV AO
	Failure to report spill or change in discharge; harm to POTW, public or environment	AO with fine/cost recovery Civil Action

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Monitoring, Reporting and Recordkeeping Violations		
Failure to notify (cont.)	<p>Failure to report an upset of the treatment system, no harm to the POTW, public or environment.</p> <p>Failure to report an upset of the treatment system, SNC, harm to POTW, public or environment</p> <p>Failure to report a discharge of hazardous waste</p> <p>Repeated failure to report spills</p>	<p>NOV AO</p> <p>AO with fine/cost recovery Civil Action</p> <p>AO with fine; Civil Action Terminate Service</p> <p>AO with fine; Civil Action Terminate Service</p>
Failure to monitor correctly	<p>Failure to monitor for all pollutants as required by the IU permit</p> <p>Chronic failure to monitor for all pollutants as required by IU permit</p>	<p>NOV</p> <p>AO; AO with fine</p>
Improper sampling techniques	<p>Isolated</p> <p>Recurring</p>	<p>Phone call; written letter; NOV</p> <p>NOV AO; AO with fine</p>

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Monitoring, Reporting and Recordkeeping Violations		
Analytical deficiencies (including: hold time exceedances, inadequate laboratory QC, etc.)	Isolated Recurring	Phone call; written letter; NOV NOV AO; AO with fine
Failure to install monitoring equipment	Delay of less than 30 days Delay of 30 days or more Chronic delay; violation of AO	NOV AO; AO with fine Civil Action Terminate Service
Tampering with monitoring equipment or methods	Isolated Recurring	AO with fine Civil Action Terminate Service Criminal Action
Failure to submit all data required in SMR	Isolated Recurring	Phone call; written letter, NOV NOV AO; AO with fine

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Failure to provide all required information following an unanticipated bypass	Isolated, not SNC	Phone call or personal visit
	Isolated; SNC, but no harm to POTW, environment or public	NOV AO to develop spill prevention plan
	Isolated; SNC and harm to POTW, environment or public	Show Cause Order AO with fine/cost recovery Civil Action
	Chronic, not SNC	NOV AO with fine
	Chronic; SNC, but no harm to POTW, environment or public	NOV AO with fine
	Chronic; SNC and harm to POTW, environment or public	AO with fine Show Cause Order Civil Action Terminate Service

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
<p>Failure to provide notification of non-compliance within the proper amount of time</p>	Isolated, not SNC	Phone call or personal visit
	Isolated; SNC, but no harm to POTW, environment or public	NOV AO to develop spill prevention plan
	Isolated; SNC and harm to POTW, environment or public	Show Cause Order AO with fine/cost recovery Civil Action
	Chronic, not SNC	NOV AO with fine
	Chronic; SNC, but no harm to POTW, environment or public	NOV AO with fine
	Chronic; SNC and harm to POTW, environment or public	AO with fine Show Cause Order Civil Action Terminate Service

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
<p>Failure to provide accurate reporting of instances of non-compliance</p>	<p>Isolated, not SNC</p>	<p>Phone call or personal visit</p>
	<p>Isolated; SNC, but no harm to POTW, environment or public</p>	<p>NOV AO to develop spill prevention plan</p>
	<p>Isolated; SNC and harm to POTW, environment or public</p>	<p>Show Cause Order AO with fine/cost recovery Civil Action</p>
	<p>Chronic, not SNC</p>	<p>NOV AO with fine</p>
	<p>Chronic; SNC, but no harm to POTW, environment or public</p>	<p>NOV AO with fine</p>
	<p>Chronic; SNC and harm to POTW, environment or public</p>	<p>AO with fine Show Cause Order Civil Action Terminate Service</p>

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Other Violations		
Wastestreams are diluted in lieu of treatment	Initial violation Recurring violation	NOV with fine AO; AO with fine Civil Action Terminate Service
Failure to mitigate violation or halt production	Does not result in harm to POTW, public or the environment Does result in harm to POTW, public or environment	NOV NOV with fine AO with fine/cost recovery Show Cause Order Civil Action Terminate Service
Failure to properly operate and maintain Pretreatment equipment or facility	Does not result in harm to POTW, public or the environment Does result in harm to POTW, public or environment	NOV AO with fine/cost recovery Civil Action

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Other Violations		
<p>Failure to meet compliance schedule milestone within 90 days following the schedule date</p>	<p>Missed milestone will not affect final compliance</p> <p>Missed milestone will affect final compliance</p> <p>Chronic violations of compliance schedule</p>	<p>NOV</p> <p>NOV AO with fine Show cause order</p> <p>AO with fine Civil Action Criminal Action Terminate Service</p>
<p>Any other violation or group of violations which will adversely effect the operation or implementation of the local Pretreatment Program</p>	<p>Violation of BMPs only</p> <p>Isolated; SNC and harm to POTW, environment or public</p> <p>Chronic; SNC and harm to POTW, environment or public</p>	<p>NOV AO with fine Show cause order</p> <p>Show Cause Order AO with fine/cost recovery Civil Action</p> <p>AO with fine Show Cause Order Civil Action Terminate Service</p>

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Violations Detected During Site Visits		
Denial of Right to Entry	Entry denied or consent withdrawn Copies of records denied	Obtain warrant and return to IU NOV with fine AO; AO with fine
Illegal Discharge	Illegal discharge observed; no harm to POTW, public or the environment Illegal discharge observed; harm to POTW, public or the environment, or evidence of neglect or negligence. Recurring illegal discharges observed	NOV with fine Civil Action Criminal Action Terminate Service Civil Action Terminate service

VIOLATIONS	NATURE/CIRCUMSTANCES	SUGGESTED ENFORCEMENT RESPONSES
Violations Detected During Site Visits		
Improper Sampling	Unintentional sampling at incorrect location Unintentional use of incorrect sample type Unintentional use of improper sample collection techniques Recurring use of incorrect sampling location, type of collection techniques; evidence of intent	NOV NOV NOV AO with fine Civil Action Criminal Action Terminate service
Inadequate Recordkeeping	Inspector finds incomplete or missing files; Isolated, no evidence of intent Inspector finds incomplete or missing files; chronic, recurring	NOV NOV with fine
Failure to report additional monitoring	Inspector finds additional files not submitted Chronic, recurring failure to report	NOV NOV with fine

Timeframes for Enforcement Responses

1. All violations will be identified and documented within five (5) days of receiving compliance information.
2. Initial enforcement responses, whether formal or informal, will occur within fifteen (15) days of identifying a violation.
3. Follow up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response.
4. Violations that threaten health, property or environmental quality are considered emergencies and will receive immediate response such as halting the discharge or terminating service.
5. All violations meeting the criteria for significant noncompliance (SNC) will be addressed through formal enforcement within thirty (30) days of the identification of SNC. The AO is the minimum level of enforcement used to address SNC.

Original Document		
	Name	Date
Prepared By	Elaine Hassinger	12/23/14

Document Revisions		
Revision Number	Name	Date
001	Tamara Moon	06/29/2022
002	Tamara Moon	09/19/2023