

Pretreatment Audit Report

City of Fort Morgan

CO-0044849

Fort Morgan, Colorado

May 17, 2021 to May 19, 2021



Prepared by:

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Pretreatment Audit Summary Table
City of Fort Morgan Pretreatment Audit Report
CO-0044849
May 17, 2021 to May 19, 2021

Pretreatment Audit Findings	Pretreatment Requirement and Corrective Action
<i>Section 4.0 – Rules/Regulations and Intergovernmental Agreements</i>	
1. 40 C.F.R. § 403.8(f)(1) states, “The POTW shall operate pursuant to legal authority enforceable in Federal, State, or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Clean Water Act (Act) and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law.” Based on EPA’s review, the City’s municipal ordinance at Chapter.17-Sewer and Wastewater, Article 1-Sewage provides a framework to implement the Pretreatment Regulations in the POTW’s service area, with the following exceptions (as identified in the attached legal authority review): • Significant Industrial User (SIU) definition [Section 17-1-20]– the definition needs to be modified to define an SIU as subject to Categorical Pretreatment Standards as outlined in 40 CFR 403.3(v). • Slug Discharge Definition [Section 17-4-70(a)] – the language in the Slug Discharge ordinance provisions need to be modified to include the slug discharge definition. “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 regulations, local limits or Permit conditions.” • Permit Conditions [Section 17-3-40(a)] – the permit conditions in the municipal ordinance do not include all permit conditions required by 40 CFR 403.8(f)(1)(B) of the Pretreatment	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(1) <u>Corrective Action Item</u> Update the municipal ordinance to ensure equivalent language with the Pretreatment Regulations found in 40 C.F.R. § 403 as identified in §4.2 of this audit report and in the enclosed legal authority checklist.

Regulations and needs to be modified to include the following: ○ Statement of duration ○ Statement of non-transferability ○ Adequate monitoring, reporting, notification, and recordkeeping requirements. ○ Statement of applicable civil and criminal penalties ○ Requirement to control slug discharges ● Permit Application Requirements – the ninety (90) days deadline for submittal of the permit application in Section 17-3-190 of the ordinance conflicts with the one hundred eighty (180) days deadline required in Section 17-3-70. The City needs to modify the permit application deadline requirements in the municipal ordinance to eliminate conflicting deadline application due dates.	
2. 40 C.F.R. § 403.8(f)(1) states, “The POTW shall operate pursuant to legal authority enforceable in Federal, State, or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Clean Water Act (Act) and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law.” The Town of Log Lane Village is an outside contributing jurisdiction to the City of Fort Morgan and has non-domestic users that have a potential to discharge non-domestic pollutants in its wastewater. The current intergovernmental agreement dated January 11, 1995 does not adequately provide the City the delegation to implement the Pretreatment Regulations in the town of Log Lane Village.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(1) <u>Corrective Action Item</u> Update the Log Lane Village intergovernmental agreement to provide the City the authority to implement the Pretreatment Regulations in this outside contributing jurisdiction.
<i>Section 7.0 – Industrial User Inventory and Characterization</i>	
3. The Pretreatment Regulations state in 40 C.F.R. §403.8(f)(2) that a POTW shall develop and implement procedures to ensure compliance with requirements of a Pretreatment Program. The Pretreatment Regulations at 40 C.F.R. §	<u>Pretreatment Requirements</u> 40 C.F.R. §403.8(f)(2) 40 C.F.R. § 403.8(f)(2(i-iii))

403.8(f)(2)(i-iii), require an approved Pretreatment program to: “Identify and locate all possible Industrial Users which might be subject to the POTW Pretreatment Program. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Regional Administrator or Director upon request.” “Identify the character and volume of pollutants contributed to the POTW by the Industrial Users identified under paragraph (f)(2)(i) of this section. This information shall be made available to the Regional Administrator or Director upon request”. “Notify Industrial Users identified under paragraph (f)(2)(i) of this section, of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the Act and subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to 40 C.F.R. 403.8(f)(6), of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status.” The City has not developed an IU Identification and Characterization procedure that addresses methods to identify IUs in its service area, characterize their contribution of pollutants, notify these IUs of their status under the Pretreatment program, and to develop and maintain or update the IU inventory. As required by 40 C.F.R. §403.8(f)(2), an IU Inventory and Characterization procedure and consistent implementation will ensure the City is identifying IUs, characterizing their pollutants, and including this information on the updated IU inventory.	<u>Corrective Action Item</u> Develop an Industrial User inventory that identifies and characterizes all industrial users (sources of non-domestic wastewater) in its service area.
4. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(i-iii), require an approved Pretreatment program to: “Identify and locate all possible Industrial Users which might be subject to the POTW Pretreatment Program. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Regional	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(i-iii) NPDES Permit #, Part 1.B.(a-c) <u>Corrective Action Item</u> Develop an Industrial User inventory that identifies all industrial users (sources of non-

Administrator or Director upon request.” b. “Identify the character and volume of pollutants contributed to the POTW by the Industrial Users identified under paragraph (f)(2)(i) of this section. This information shall be made available to the Regional Administrator or Director upon request”. c. “Notify Industrial Users identified under paragraph (f)(2)(i) of this section, of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the Act and subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to 40 C.F.R. 403.8(f)(6), of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status.” The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(6) state, “The POTW shall prepare and maintain a list of its non-domestic or Industrial Users meeting the criteria in §403.3(v)(1). The list shall identify the criteria in §403.3(v)(1) applicable to each Industrial User and, where applicable, shall also indicate whether the POTW has made a determination pursuant to §403.3(v)(2) that such Industrial User should not be considered a Significant Industrial User. The City has not developed this list/inventory of industrial users in its entire service area that provides characterization of the IU’s status under the Pretreatment program.	domestic wastewater) in its service area which includes the City and the outside contributing jurisdiction, the Town of Log Lane Village. Provide information to EPA as a follow-up to the this audit report that characterizes the IUs from the City and the Town of Log Lane Village that are identified in §7.3 of this audit report.
<i>Section 8.0 – Control Mechanism (Permit) Evaluation and Permit Specific Issues</i>	
5. 40 C.F.R. § 403.12(o)(2) of the Pretreatment Regulations require the City to retain reports, notices, including BMPs for a minimum of three years and shall make the records available for inspection and copying by the EPA. The City needs to improve its recordkeeping to ensure the Pretreatment records are organized and complete, as evidenced in the DFA specific findings.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.12(o)(2) <u>Corrective Action Item</u> Evaluate the Pretreatment record keeping protocols and ensure the Pretreatment records are current and complete.
6. 40 C.F.R. § 403.8(f)(2)(iv) of the Pretreatment Regulations requires the City to “Receive and analyze self-monitoring reports and other notices submitted by the Industrial User.” The self-	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.12(f)(2)(iv)

monitoring compliance reports were not consistently date stamped and EPA could not determine if these reports are received within the due date required by the permit.	40 C.F.R. § 403.8(f)(2)(vii) <u>Corrective Action Item</u> Consistently date-stamp the received self-monitoring reports and notices to ensure these are received within the permit-required compliance deadlines.
7. The current DFA permit issued on June 10, 2016 and expiring on May 31, 2021 did not implement the City’s current local limits approved by EPA on October 6, 2016. The Pretreatment Regulations at 40 CFR 403.8(f)(1)(iii) require the City to ‘Require compliance with applicable Pretreatment Standards and Requirements’. The City needs to ensure the reissued DFA permit includes applicable and current local limits. The City needs to ensure the DFA permit is reissued and does not exceed the 5-year duration ceiling imposed by 40 CFR 403.8(f)(1)(B)(3) which states “Statement of duration (in no case more than five years)” The City needs to public notice the permit if it continues to develop and incorporate site-specific limits for nitrate in the reissued DFA permit. The public noticed permit also needs to be submitted to EPA for evaluation and review.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(1)(iii) 40 C.F.R. § 403.8(f)(1)(B)(3) <u>Corrective Action Item</u> Ensure the reissued DFA permit includes applicable and current local limits. In addition, ensure the DFA permit is public noticed and reissued to not exceed the 5-year duration.
8. 40 C.F.R. § 403.8(f)(2)(ii) require the City to “Identify the character and volume of pollutants contributed to the POTW.” Based on EPA’s review of the 2020 DFA inspection report, it does not adequately characterize the facility. The 2020 DFA inspection report needs to include more detail regarding the facility’s chemical storage/handling/transfer, process/unit operations, wastestream generation from these unit operations, wastestream management or wastewater treatment, sampling procedures to provide a current characterization. In addition, the Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(iii) require the City to notify IUs of applicable Pretreatment Standards and Requirements. The Pretreatment records did not include notification or follow up to DFA regarding its current conditions and status under the	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(ii) 40 C.F.R. § 403.8(f)(2)(iii) <u>Corrective Action Item</u> Provide more detail in the Pretreatment inspection reports to include information about the facility’s chemical storage, handling, and transfer, process/unit operations, wastestream generation from these unit operations, wastestream management or wastewater treatment, sampling procedures to provide a current characterization. Provide notification or follow up to DFA regarding its current conditions and status under the Pretreatment program after the 2020 facility inspection.

Pretreatment program after the 2020 facility inspection.	
9. 40 C.F.R. § 403.8(f)(2)(vii) of the Pretreatment Regulations require the City to “Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices.” The March 2020 compliance report was not included in the Pretreatment Records.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) City of Fort Morgan Enforcement Response Plan <u>Corrective Action Item</u> Determine if the March 2020 compliance report was received by the City or if DFA did not submit the monthly report, as required in their permit. If DFA failed to report, then the City needs to enforce according to its ERP.
10. 40 C.F.R. § 403.8(f)(2)(vii) of the Pretreatment Regulations require the City to “Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices.” DFA exceeded its permitted flow limit of 350,000 gallons per day (gpd) on 02/21/2021 with a daily flow of 0.35077 million gallons per day (mgd).	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) City of Fort Morgan Enforcement Response Plan <u>Corrective Action Item</u> Provide an enforcement response for DFA’s permit violation of its flow limits, according to its ERP.
11. DFA violated the ammonia permit limits in January 2021 on the sample dates identified below. In addition, DFA violated the following permit condition, (1) failure to maintain pH continuous monitoring equipment and (2) failure to report bi-annual metals data. The City issued a notice of violation (NOV) that was received by DFA on 02/24/2021. a. 01/19/21 – 23.10 mg/L and 64.57 lbs/day b. 01/21/21 – 23.90 mg/L and 65.78 lbs/day c. 01/22/21 – 21.30 mg/L and 58.86 lbs/day The NOV required DFA to submit to the City Manager within 5 days a written notice explaining the exact cause of the violations and DFA’s plan to assure future discharges of total ammonia comply with the permit. The NOV also required DFA to provide written confirmation within 20 days that the corrective measures set forth in the NOV response	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) City of Fort Morgan Enforcement Response Plan <u>Corrective Action Item</u> Ensure a 20-day written confirmation that the corrective measures set forth in the NOV response have been implemented, was received by DFA as required by the 02/24/2021 NOV or enforce, according to the City’s ERP.

have been implemented, together with an explanation. DFA submitted a response dated 03/01/21 (the NOV response was not date stamped by the City) that adequately responded to the NOV. However, there were no records that DFA submitted written confirmation within 20 days, as required by the NOV.	
12. DFA violated the ammonia permit daily maximum limits of 15 mg/L and 45 lbs/day on 02/21/21 with sampling results: 19.30 mg/L and 54.04 lbs/day. The City issued an NOV that was received by DFA on 03-22-2021. The NOV required DFA to submit to the City Manager within 5 days a written notice explaining the exact cause of the violations and DFA's plan to assure future discharges of total ammonia comply with the permit. The DFA NOV response was received by the City on 04/05/21, past the five days required in the NOV. The NOV also required DFA to provide written confirmation within 20 days that the corrective measures set forth in the NOV response have been implemented, together with an explanation. There were no records that DFA submitted written confirmation within 20 days, as required by the NOV.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) City of Fort Morgan Enforcement Response Plan <u>Corrective Action Item</u> Provide an enforcement action for DFA's failure to provide a written response to the 04/05/21 NOV within five days, in accordance with the City's ERP. Ensure a 20-day written confirmation that the corrective measures set forth in the NOV response have been implemented, was received by DFA as required by the 04/05/2021 NOV or enforce, according to the City's ERP.
13. 40 CFR 403.8(f)(2)(vi) of the Pretreatment Regulations require a POTW to "Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges. 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. For purposes of this subsection, 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 regulations, local limits or Permit conditions." The January and February 2021 ammonia violations	<u>Pretreatment Requirements</u> 40 CFR 403.8(f)(2)(vi) <u>Corrective Action Item</u> Require DFA to update its current slug discharge control plan to include the slug discharge potential from high production and the capacity/design of the wastewater treatment plant to effectively treat this high production or high strength waste.

were determined by DFA to be caused by high production and incomplete treatment of the volume or the strength of the generated wastewater. The facility's current slug discharge control plan dated 05/28/21 does not address DFA's treatment capacity or contingency plans to treat wastewater generated from high production days.	
<i>Section 10.0 – Control Authority Compliance Monitoring</i>	
14. The Pretreatment Regulations state in 40 C.F.R. §403.8(f)(2) that a POTW shall develop and implement procedures to ensure compliance with requirements of a Pretreatment Program. The City has not developed a sampling plan for DFA that describes sampling techniques and methods at the SIUs to ensure appropriate and representative sampling.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2) <u>Corrective Action Item</u> Develop a DFA sampling plan to ensure consistent implementation of sampling techniques/methods and QA/QC to produce representative and enforceable data.
<i>Section 11.0 – Enforcement</i>	
15. The City submitted its ERP to the EPA for review, prior to the audit. Based on the EPA's review, the ERP needs to be updated to include the following, in accordance with 40 C.F.R. § 403.8(f)(5)(i-iv): • Describe how the POTW will investigate instances of noncompliance. ○ The City needs to address the implementation procedures utilized to investigate instances of noncompliance which includes procedures for control authority monitoring and compliance evaluation/SNC calculations/determination procedures. • 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. ○ The City needs to establish escalating enforcement responses it will take for the following types of IU violations: ○ Unpermitted Discharges ○ Improper Sampling, Preservation or Analytical Methods ○ Reporting Violations or Deficiencies/Late Reports (BMRs, 90-day compliance reports,	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(5) <u>Corrective Action Item</u> Modify the enforcement response plan to be in compliance with 40 C.F.R. § 403.8(f)(5)(i-iv) of the Pretreatment Regulations.

- self-monitoring compliance reports, compliance schedule reports)
- Including Late or Failure to Report which meets the SNC criteria
- Tampering with monitoring equipment/methods
- Recordkeeping
- Dilution
- Sector control programs and BMPs
- SNC Narrative Criteria found in §17.1.20-Significant Noncompliance definition, #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.”
- SNC Narrative Criteria found in §17.1.20-Significant Noncompliance definition, #G. “Failure to accurately report noncompliance.”
- SNC Narrative Criteria found in §17.1.20-Significant Noncompliance definition, #H. “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.”
- **Identify (by title) the official(s) responsible for each type of response;**
 - The City’s current ERP does not identify the title of the Pretreatment official responsible and the time periods for each type of enforcement response.
- **Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards**
 - Section II.A – This section does not define a non-significant violation and if this non-significant violation be subject to enforcement? The City needs to define a non-significant violation and address this in the enforcement actions table.
 - Section II.B.4.5 – Administrative Fine and Penalties need to be updated to reference the \$25,000 penalty amount in the Municipal

Ordinance §17-6-70 - Administrative Penalty and §17-6-110 - Civil Penalties.	
16. 40 C.F.R. § 403.8(f)(2)(viii) of the Pretreatment Regulations require a POTW to comply with the public participation requirements in the enforcement of National Pretreatment Standards. These procedures shall include a provision for at least annual public notification in a newspaper of general circulation, that provides meaningful public notice within the jurisdictions served by the POTW, of IUs which, at any time during the previous 12 months, were in SNC with applicable Pretreatment requirements. The SNC determinations are both calculation of numeric Pretreatment Standards, as listed in 40 C.F.R. § 403.8(f)(2)(viii)(A-D) and determination of violations of the narrative Pretreatment Standards, as listed in 40 C.F.R. § 403.8(f)(2)(viii)(E-H). The City stated that it performs SNC calculations or determinations when violations occur. However, EPA did not find records for SNC determination of narrative criteria.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) City of Fort Morgan Municipal Ordinance, §13.1217.1.20-Significant Noncompliance definition, #D-H <u>Corrective Action Item</u> Evaluate and determines if the IUs are in violation of the narrative SNC criteria found in the City of Fort Morgan municipal ordinance, §13.1217.1.20, Significant Noncompliance definition, #D-H during routine SNC calculations.
<i>Section 13.0 – Best Management Practices – Sector Control Program</i>	
17. The Dental Amalgam Rule, found in 40 C.F.R. Part 441, was promulgated as a final rule with new source dental facilities required to be in compliance with the Pretreatment Standards as of July 14, 2017, and existing source dental facilities required to be in compliance as of June 14, 2020. The EPA identified a number of dental facilities in the service area through a Google search (listed in §13.4 of this audit report). There were no available records for these dental facilities to identify if they are subject to the Dental Amalgam Rule.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(i-iii) 40 C.F.R. § 441.50(a)(1) <u>Corrective Action Item</u> Characterize the dental offices identified in §13.4 of this audit report and any other dental facilities in the service area to determine if the Dental Amalgam Regulations are applicable. Provide enforcement to non-compliance with the rule requirements for amalgam separator installation, best management (BMP) and reporting requirements.

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1.0 Introduction

The U.S. Environmental Protection Agency, Region 8 (EPA) conducted a remote audit of the Pretreatment program, administered by the City of Fort Morgan, CO (City) from May 17, 2021 to May 19, 2021. The remote Pretreatment audit was held in lieu of an on-site audit in response to concerns related to the COVID-19 pandemic. The remote inspection, hosted on the MS-Teams platform, started on May 17, 2021 at 8 a.m. with an opening interview. Pretreatment records were reviewed, and a closing conference was held on May 19, 2021 at 2 p.m. during which the EPA presented the preliminary observations, conclusions, and findings from the audit.

Participants in the audit included:

City of Fort Morgan, CO

Skip Kaiser	Wastewater Treatment Plant Superintendent
Ed Romero	Pretreatment Coordinator

EPA:

Al Garcia	Region 8 Pretreatment Coordinator
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The primary purpose of the EPA audit was to evaluate the Pretreatment program administered and implemented by the City. In addition, the audit served as a forum for the EPA and the City to discuss issues related to the implementation of the Pretreatment program and for the EPA to provide outreach and training to the City.

The EPA Pretreatment audit consisted of an evaluation of the following:

- The City's legal authority codified in its municipal ordinance; Chapter 17-Sewer and Wastewater, Article 1 - Sewage.
- Development and implementation of the City's local limits.
- The City's resources to implement the Pretreatment program in its service area.
- Implementation policies and templates developed by the City.
- Review and evaluation of the Pretreatment programmatic activities and records maintained for the permitted Significant Industrial Users (SIUs).
- Due to the remote nature of the Pretreatment audit, site inspection of selected SIUs and IUs in the service area were not completed.
- Discussion of the Pretreatment Regulations and implementation.

The following sections of the report highlight the findings, corrective actions, and recommended actions of the audit. The action items to correct program deficiencies and meet regulatory requirements are identified in the Pretreatment Audit Summary Table, beginning on page 2 of this report. Specific actions to clarify and strengthen program implementation are provided as recommendations within the body of the audit report.

2.0 Publicly Owned Treatment Works (POTW) Information

The City owns and operates the POTW located at 18169 Road 22, Fort Morgan, CO 80701. The POTW serves the legal boundary of the City and the Town of Log Lane Village, an outside contributing jurisdiction. The service area for the POTW is shown in Figure 1 and the Google Earth view of the City's POTW is shown in Figure 2.

Due to the pandemic and the necessity for a remote audit, a POTW tour was not completed.

2.1 NPDES Permit

The City's NPDES permit #CO-0044849 issued by the Colorado Department of Public Health and Environment (CDPHE) on February 20, 2009 and effective on April 1, 2009 contain provisions for an EPA-approved Pretreatment program in Part I.A.8. The City's NPDES permit expired on March 31, 2014 and is currently administratively extended by the CDPHE.

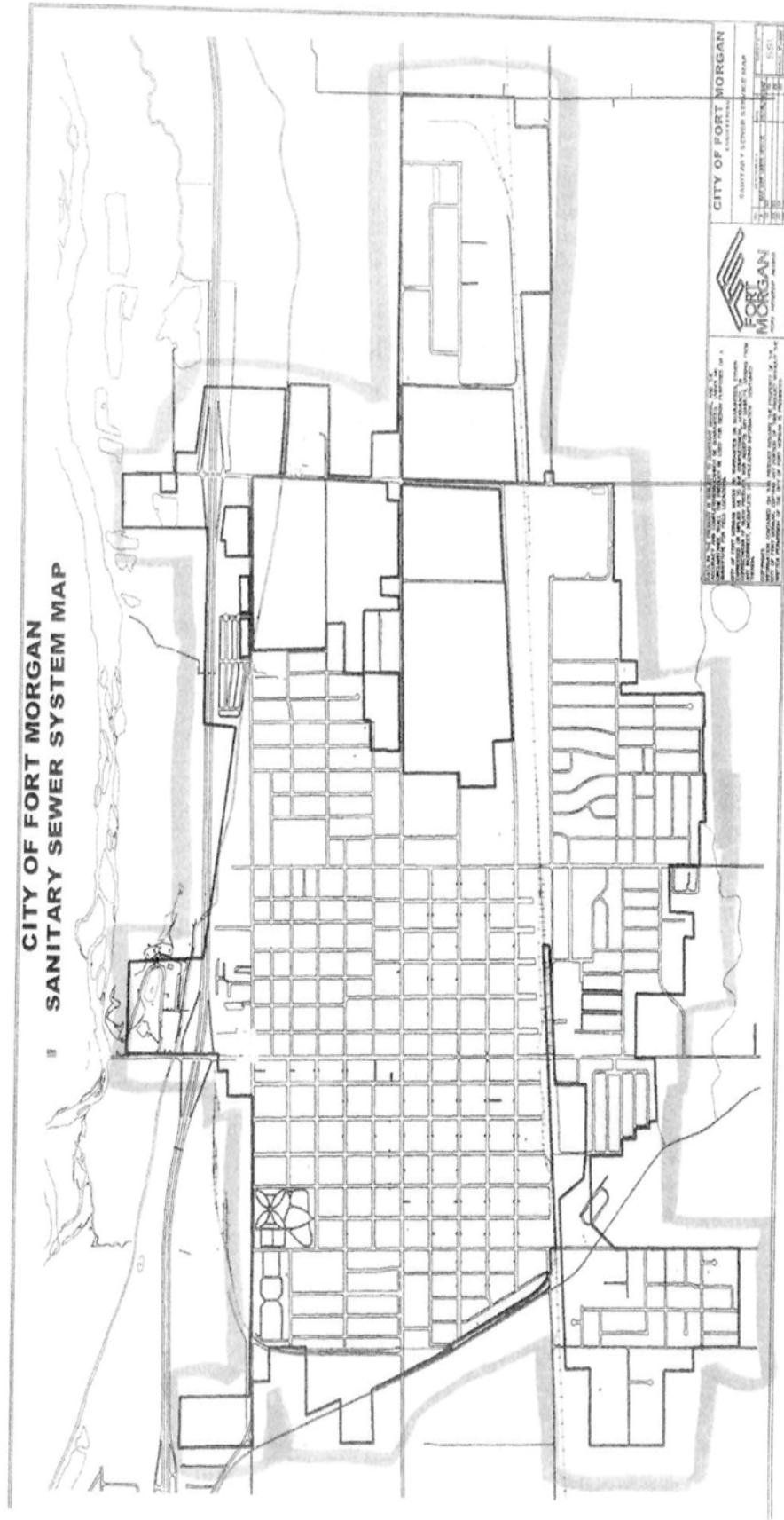


Figure 1 –City of Fort Morgan Service Area

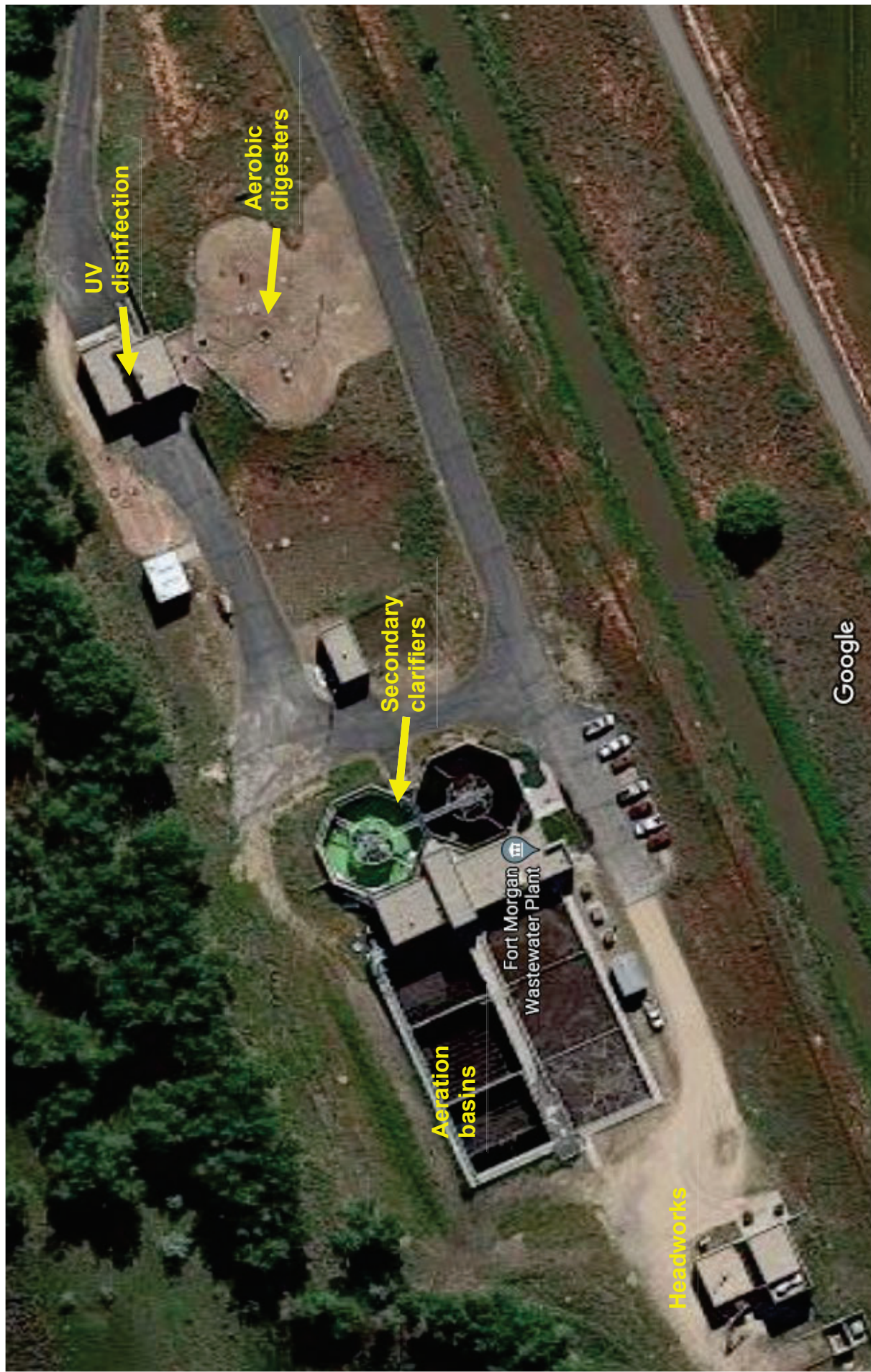


Figure 2 – City of Fort Morgan Google Earth View

3.0 Resources

3.1 Resources Regulatory Background

The Pretreatment Regulations found in 40 C.F.R. § 403.8(f)(1-6) include POTW Pretreatment requirements and procedures to implement an approved Pretreatment program. These requirements and procedures include the legal authority and the implementation procedures of the Pretreatment program (permitting, inspections, sampling, industrial waste survey, receipt of IU reporting and notification, record-keeping, slug discharge control, data evaluation and enforcement for non-compliance). In addition, the Pretreatment Regulations found in 40 C.F.R. § 403.8(f)(3) state that the POTW shall have sufficient resources and qualified personnel to carry out the authorities and implementation procedures of the Pretreatment program.

A Pretreatment program, in compliance with the criteria listed in the Pretreatment Regulations, requires adequate and qualified staffing to implement the Pretreatment program in its service area. The resources required for each implementation activity depend largely on the size of the service area, number of IUs/SIUs/sector control programs, and Pretreatment program policies. A compliant program also requires a consistent funding mechanism to ensure the program is adequately funded and equipped to fully implement the program.

3.2 Evaluation of the City's Resources and Funding

The City reported in its 2020 annual Pretreatment report that it commits 0.5 FTE to the implementation of the Pretreatment program. Information gathered during the audit indicate that the City's commitment to the Pretreatment program is 0.75 FTE, split between the POTW Superintendent, POTW Foreman (Pretreatment Coordinator), and Lead POTW Operator. The POTW Superintendent leads the annual inspection of the only permitted SIU and reviews the submitted discharge monitoring reports. The Pretreatment Coordinator participates in the annual SIU inspection, downloads and reviews the daily flow/pH data generated from the SIU and manages the oil and grease BMP-based sector control program. The Lead POTW Operator assists in the industrial user inventory and characterization by mailing the surveys to businesses in the service area.

Based on EPA's review of the City's implementation of its Pretreatment program, the City needs to ensure consistent resources to implement all programmatic activities of the Pretreatment, such as the industrial user inventory and characterization, permit management, and the dental amalgam program. The implementation of these Pretreatment program activities was identified as deficient in this audit report and requiring corrective action items.

The City stated in the audit that it is provided \$14,000 for the Pretreatment program from the Wastewater Treatment Plant budget as a special line item. The Wastewater budget is generated from user fees in the service area.

3.3 Examples of Available Pretreatment Training/Resources

This is not a comprehensive list of all Pretreatment related training/resources available. The City is encouraged to seek out training and resources that will support its Pretreatment program implementation. EPA is also available to the City for Pretreatment training opportunities.

The Region 8 Pretreatment workshop provides training sessions directly related to Pretreatment implementation, updates to upcoming regulations and policies, and networking opportunities.

The EPA provides “Pretreatment 101” webinar training designed to provide consistent national training to local and state Pretreatment programs. The webinar series is located at <https://www.epa.gov/npdes/national-pretreatment-program-events-training-and-publications#training>. Archived presentations may be downloaded, and a schedule of future training opportunities is located at the website.

An additional resource available is the Pretreatment Coordinators Group discussion forum, found at the following website:

<https://groups.io/g/Pretreatment/topics>

4.0 Municipal Ordinance and Intergovernmental Agreements

4.1 Legal Authority Background

40 C.F.R. § 403.8(f)(1) of the Pretreatment Regulations states:

“The POTW shall operate pursuant to legal authority enforceable in Federal, State, or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Clean Water Act (Act) and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law.

At a minimum, this legal authority shall enable the POTW to:

- i.* Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, 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;
- ii.* Require compliance with applicable Pretreatment Standards and Requirements by Industrial Users;
- iii.* Control through Permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under

§403.3(v), this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such User...

- iv. Require (A) the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements and (B) the submission of all notices and self-monitoring reports from Industrial Users as are necessary to assess and assure compliance by Industrial Users with Pretreatment Standards and Requirements, including but not limited to the reports required in §403.12.
- v. Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives of the POTW shall be authorized to enter any premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept under §403.12(o) to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided under section 308 of the Act;
- vi. (A) Obtain remedies for noncompliance by any Industrial User with any Pretreatment Standard and Requirement. All POTW's shall be able to seek injunctive relief for noncompliance by Industrial Users with Pretreatment Standards and Requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by Industrial Users of Pretreatment Standards and Requirements.

(B) Pretreatment requirements which will be enforced through the remedies set forth in paragraph (f)(1)(vi)(A) of this section, will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or these regulations in this part. The POTW shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Approval Authority shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty which the Approval Authority believes to be insufficient.

- vii. Comply with the confidentiality requirements set forth in §403.14.”

The provisions in 40 C.F.R. § 403.8(f)(1)(i-vii) do not provide local Pretreatment programs with legal authority, but they do establish the minimum requirements for the local municipality to implement the Pretreatment program. A POTW’s legal authority is derived from State law. Therefore, State law must confer the minimum legal authority required by the Pretreatment Regulations on a POTW.

To apply the regulatory authority provided by State law, it is necessary for the POTW to establish local regulations to legally implement and enforce pretreatment requirements. A POTW's legal authority is typically established in a sewer use ordinance as part of the municipality's code, or in the case of a sanitation district, its Rules and Regulations. The EPA's 2007 *Model Pretreatment Ordinance* provides a template for POTWs that are required to develop pretreatment programs and can be found at the following website:

https://www3.epa.gov/npdes/pubs/pretreatment_model_suo.pdf

4.2 City of Fort Morgan Municipal Ordinance

EPA approved the City's Pretreatment program on October 8, 1985. According to records maintained by EPA, the City updated its legal authority (municipal ordinance) in 1993 to incorporate the Domestic Sewage Exclusion regulations, in 1996 to update definitions and incorporate the specific prohibitions and in 2010 to incorporate the Pretreatment Streamlining Regulations. In addition, the City established local limits on December 14, 1994 and updated its local limits on May 12, 2001, May 12, 2010 and September 6, 2016.

The City provided its Pretreatment legal authority found in its municipal ordinance, Chapter.17-Sewer and Wastewater, Article 1-Sewage to the EPA for review. Based on the EPA's review, the City's municipal provides a framework to implement the Pretreatment Regulations in the POTW's service area, with the following exceptions (as identified in the attached legal authority review):

- Significant Industrial User (SIU) definition [Section 17-1-20]– the definition needs to be modified to define an SIU as subject to Categorical Pretreatment Standards as outlined in 40 CFR 403.3(v).
- Slug Discharge Definition [Section 17-4-70(a)] – the language in the Slug Discharge ordinance provisions need to be modified to include the slug discharge definition. “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 regulations, local limits or Permit conditions.”
- Permit Conditions [Section 17-3-40(a)] – the permit conditions in the municipal ordinance do not include all permit conditions required by 40 CFR 403.8(f)(1)(B) of the Pretreatment Regulations and needs to be modified to include the following:
 - Statement of duration
 - Statement of non-transferability
 - Adequate monitoring, reporting, notification, and recordkeeping requirements.
 - Statement of applicable civil and criminal penalties
 - Requirement to control slug discharges
- Permit Application Requirements – the ninety (90) days deadline for submittal of the permit application in Section 17-3-190 of the ordinance conflicts with the one hundred eighty (180) days deadline required in Section 17-3-70. The City needs to modify the permit application deadline requirements in the municipal ordinance to eliminate conflicting deadline application due dates.

4.3 *Inter-Jurisdictional or Governmental Agreements (IGA)*

4.3.1 IGA Regulatory Background

A POTW's authority to implement and enforce its approved Pretreatment program is directly related to its regulatory jurisdiction. The POTW's authority is established in ordinance or Rules and Regulations, which are in effect for its service area. Local entities with connectors, or outside jurisdictions to the service area that contribute wastewater, must establish legally binding mechanisms to ensure that all IUs in these outside contributing jurisdictions are subject to enforceable Pretreatment standards and requirements, as required in §403.8(f)(1).

40 C.F.R. § 403.8(f)(1)(i) states, "The POTW shall operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Act and any regulations implementing those sections. *Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law.*" [Emphasis added]

The local entity that implements the Pretreatment program must either obtain this authority for itself through an IGA or ensure that the outside contributing jurisdiction has both the authority and the obligation to implement and enforce the Pretreatment Standards and Requirements against every IU that discharges to the POTW.

4.3.2 Evaluation of the City's IGAs with Outside Contributing Jurisdictions

The Town of Log Lane Village is an outside contributing jurisdiction to the City of Fort Morgan and has non-domestic users that have a potential to discharge non-domestic pollutants in its wastewater. The current IGA dated January 11, 1995 does not adequately provide the City the delegation to implement the Pretreatment Regulations in the town of Log Lane Village. The City needs to update the Log Lane Village IGA to provide the City the authority to implement the Pretreatment Regulations in this outside contributing jurisdiction.

5.0 Local Limits

5.1 *Local Limits Regulatory Background*

40 C.F.R. § 403.8(f)(4) of the Pretreatment Regulations require POTWs that are developing pretreatment programs to develop and enforce specific limits on prohibited discharges or demonstrate that the limits are not necessary. 40 C.F.R. § 403.5(c)(1) states, "Each POTW developing a POTW Pretreatment Program pursuant to §403.8 shall develop and enforce specific limits to implement the prohibitions listed in paragraphs (a)(1) and (b) of this section [*general and specific prohibitions*]. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits." [Clarification and emphasis added].

The National Pretreatment Program consists of three types of national pretreatment standards established by regulation that apply to industrial users. These include prohibited discharge standards, categorical standards, and local limits. Prohibited discharge and categorical standards are developed by the EPA to establish nationwide Pretreatment Standards. Prohibited discharge standards, comprised of general and specific prohibitions found in 40 C.F.R. 403.5(a) and (b) of the Pretreatment Regulations, apply to all IUs regardless of the size or type of operation. Categorical standards are uniform, technology-based standards that apply to specific process wastewater discharges from industrial categories. These categorical standards are found at 40 C.F.R. Parts 405 through 471.

The EPA's promulgation of categorical standards does not relieve a POTW from its obligation to evaluate the need for and to develop local limits to meet the general and specific prohibitions in the Pretreatment Regulations. Because specific prohibitions and categorical standards provide only general protection against pass through and interference, local limits based on POTW-specific conditions may be necessary. Local limits are developed by POTWs to enforce the specific and general prohibitions, as well as any state and local regulations.

An EPA-approved Pretreatment program is required to develop local limits that are protective of the POTW, the collection system, and the POTW's site-specific standards. These site-specific standards may be NPDES permit effluent limits, biosolids limits, environmental criterion, worker health and safety standards or other local standards.

The EPA recommends that POTWs establish their local limits based on the maximum allowable headworks loading (MAHL) calculated for each pollutant of concern. The MAHL approach enables the POTW to calculate local limits considering the portion of the MAHL that is controllable (non-domestic discharges from IUs) from the uncontrollable portion (domestic sources, background concentrations, etc.). A pollutant's MAHL is determined by first calculating its Allowable Headworks Loading (AHL) for each POTW's site-specific standard or environmental criterion. Local limit development uses a mass-balance approach to determine the AHLs for a POTW based on the environmental and treatment plant criteria.

An AHL is the estimated maximum loading of a pollutant that can be received at a POTW's headworks, that should not cause a POTW to violate a treatment plant limit or environmental criterion. An AHL is developed to prevent interference or pass through. An AHL is calculated for each applicable POTW site-specific standard: pass through, sludge contamination, air quality standards, and the various forms of interference (i.e. biological treatment inhibition, sludge digestion inhibition). The AHLs for each pollutant of concern (POC) are calculated based on the various suitable environmental criteria, plant flow rates, and plant removal efficiency. After calculating a series of AHLs for each POC, the lowest AHL is chosen as the MAHL.

MAHLs estimate the maximum combined loadings that can be received at the POTW's headworks from all sources. Maximum allowable industrial loadings (MAIL), developed by the POTW, represent the amount of pollutant loadings the POTW can receive from controlled sources (i.e., industrial users, some commercial sources, and some hauled waste)

that the POTW chooses to control through local limits. Local limits can take many forms based on how MAILs are allocated by the POTW. The designation and implementation of these MAILs, including the allocation of loadings to SIUs, are left to each POTW. The POTW should provide a reasonable method of allocating the MAIL to the SIUs while ensuring the implementation procedures do not exceed the calculated MAHL. Typically, the POTWs allocate the MAIL as a uniform concentration-based or a mass limit to each SIU.

The local limits should be based on the following:

- Sampling of the service area to develop a representative data set collected for local limits (e.g. influent, effluent, biosolids, commercial, residential, industrial, trucked/hailed waste).
- Evaluation of the current POTW standards/criteria (including, but not limited to: NPDES permit limits/conditions, water quality standards, biosolids standards).
- Identification of the POTW removal efficiency and pollutant partitioning.
- Evaluation of data to ensure it is current and representative of current conditions.
- Identification of pollutants of concern.
- Calculations of loadings and determination of MAHL.
- Development of local limits and allocation methods.

5.2 Local Limits Requirements Established in the City's NPDES Permits

The City's NPDES permit issued by the CDPHE on February 20, 2009 and effective on April 1, 2009 include local limit requirements in Part I.B.8(c). The local limits requirements are as follows:

"The Permittee shall establish and enforce specific local limits to implement the general and specific prohibitions found in 40 CFR 403.5(a) and (b). The Permittee shall continue to develop these limits as necessary and effectively enforce such limits."

5.3 The EPA Evaluation of the City's Local Limits

The City's local limits were updated in 2016, after providing a technical evaluation required by the 2009 issued NPDES permit. The current local limits are incorporated in Section 17-7-10(3) of the municipal ordinance. The local limits applicability language is as follows:

"No significant industrial user shall discharge wastewater that exceeds the following limits"

Table 1 – City of Fort Morgan Local Limits

Pollutant	Symbol	Local Limits (mg/L)
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Arsenic, Total	As	0.033
Cadmium, Total	Cd	0.031
Chromium, Total	Cr	3.62
Copper, Total	Cu	0.25
Lead, Total	Pb	0.154
Mercury, Total	Hg	0.004
Molybdenum, Total	Mo	0.07
Nickel, Total	Ni	0.13
Selenium, Total	Se	0.03
Silver, Total	Ag	3.21
Zinc, Total	Zn	2.4
Ammonia		187.8 lbs/day
Total Inorganic Nitrogen	TIN	259.2 lbs/day
Biochemical Oxygen Demand, 5-day	BOD ₅	1,049 lbs/day
Total Suspended Solids	TSS	1,884 lbs/day

5.3.1 Numeric Ordinance Limits

In addition to the established technically-based local limits, the City has incorporated the following numeric ordinance limits in Section 17-7-10(5) of the municipal ordinance. These numeric ordinance limits are not site-specific and have not undergone the rigor of approval/ public participation for the technically-based local limits:

- BTEX at 750.0 µg/L
- Benzene at 50.0 µg/L

The City incorporated the BTEX and Benzene limits based upon installation of air stripping technology as described in the EPA document: "Model NPDES Permit for Discharges Resulting from the Cleanup of Gasoline Released from Underground Storage Tanks. June 1989.

5.3.2 Dilution Prohibition

The City has incorporated a prohibition on dilution in Section 17-7-10(1) of the municipal ordinance to ensure the IUs are appropriately managing their regulated wastestreams to meet compliance with an applicable Pretreatment Standard or Requirement established by the City:

“Dilution is prohibited as a substitute for treatment and shall be a violation of this article

except where expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The City may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate.”

The dilution prohibition language in Section 17-7-10(1) meets the requirement in 40 CFR Part 403.6(d) of the Pretreatment Regulations.

5.4 Local Limits Technical Evaluation-Regulatory Background

40 C.F.R. § 122.44(j)(2)(ii) of the NPDES regulations require POTWs to provide a written technical evaluation of the need to revise local limits following permit issuance or reissuance. The technical evaluation is a detailed re-evaluation of data, criteria, conditions, and assumptions on which local limits are based to determine whether any significant changes affecting the local limits have occurred. Chapter 7 of the *Local Limits Development Guidance Manual*, EPA-833-R-04-002A, July 2004 provides guidance on completing the technical evaluation of local limits.

The Annual Pretreatment Reports submitted to the EPA provide the POTW with an opportunity to perform reviews for exceedances of the established MAHL for the POCs, on an annual basis. The POTW compares both the maximum and average influent data for the reporting year against the MAHL to determine if there were any exceedances. In addition, the POTW is required to report biosolids data to determine if there were any changes or concerns with the biosolids loadings. An exceedance of the established MAHL may be indicative of a change in the service area, changes to the POTW operations or changes to domestic or non-domestic loadings and may indicate a need to recalculate the local limits. However, the annual review may not have addressed conditions that can change over time, such as operating conditions, environmental criteria/standards, data, or assumptions that may make local limits no longer appropriate, protective or legally-defensible.

As a follow-up to MAHL exceedances listed on the annual report and as required during a permit reissuance, a POTW should compare its current conditions and requirements with those that existed when the local limits were developed. The EPA recommends that POTWs determine if re-calculating existing local limits, or developing MAHLs for new pollutants of concern, is necessary in response to the following criteria:

1. Removal Efficiencies
 - a. Modification to the POTW or new POTW brought online.
 - b. Changes in POTW processes or operations that have affected the POTW removal efficiencies.
2. Total POTW or IU Loading
 - a. Significant changes to flow to the POTW.
 - b. Significant changes to loadings to the POTW due to new IUs, changes in loadings at existing IUs or significant growth in the service area.

- c. Significant changes in loadings from SIUs in the service area.
- 3. Limiting Criteria
 - a. New or revised NPDES permit limits.
 - b. New or revised biosolids standards.
 - c. Changes in EPA or State Criteria (acute and chronic water quality standards for the receiving waters, reuse water quality criteria) at the time of local limit development to existing criteria.
- 4. Sludge Characteristics or Method of Disposal
 - a. Changes in loadings to biosolids.
 - b. Changes in biosolids disposal methods.
- 5. Background Concentrations of Pollutants in Receiving Water

5.5 *Technical Evaluation of the City's Local Limits*

Part I.B.8(c) of the City's NPDES permit includes the following requirements for a technical evaluation of the local limits:

"In accordance with EPA policy and with the requirements of 40 CFR sections 403.8(f)(4) and 403.5(c), the Permittee shall determine if technically based local limits are necessary to implement the general and specific prohibitions of 40 CFR sections 403.5(a) and (b).

This evaluation should be conducted in accordance with the latest revision of the EPA Region VIII Strategy for Developing Technically Based Local Limits, and after review of the Guidance Manual on the Development and implementation of Local Discharge Limitations Under the Pretreatment Program, December 1987. Where the Permittee determines that revised or new local limits are necessary, the Permittee shall submit the proposed local limits to the Approval Authority in an approvable form based upon the findings of the technical evaluation within two-hundred and seventy (270) days from the effective date of this permit."

The City's NPDES permit expired on March 31, 2014 and is currently on administrative extension by the CDPHE. The reissued permit by CDPHE will include a requirement to provide a technical evaluation of the City's local limits to be submitted to the EPA within 12 months of reissuance.

5.6 *Permit or Site-Specific Limits*

Local municipalities implementing the Pretreatment program should have the ability to establish site or permit-specific limits as deemed necessary to be protective of the POTW. This is a beneficial authority because situations or projects may occur in the service area that the municipality may want to provide control to protect the POTW. However, the current limits in the ordinance may not address the pollutant of concern.

The EPA considers the development of any local limit, whether codified in the municipal ordinance/rules and regulations or developed on a site-specific situation (i.e., permits-specific limit) to be a program modification under 40 C.F.R. §403.18 (53 FR 40579, Final Rule, General Pretreatment Regulations for Existing and New Sources, October 17, 1988).

The development of any local limit is required to follow the approval and public notice provisions, both at the local level and by submitting to the EPA.

40 C.F.R. §403.5(c)(3) of the Pretreatment Regulations state, “Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.” The EPA recommends that POTWs conduct public participation in the local limits process (whether codified in the municipal ordinances/rules and regulations or new limits developed in a permit) as openly as possible. This may involve notifying the SIUs/IUs and other affected parties of the proposed limits or announcing a 30-day public comment period. This would allow sufficient time for the public to participate, which is a fundamental goal of the Clean Water Act in Section 101(e).

The City has established the ability to develop site or permit-specific limits in Section 13.12.280(c) of its municipal ordinance:

“The City may establish more stringent pollutant limits, additional site-specific pollutant limits or additional pretreatment requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Chapter.”

Based on the EPA’s review of the Pretreatment records, the City has established site-specific limits for nitrate in the Dairy Farmers of America permit and needs to ensure the reissued permit is public noticed.

6.0 Pretreatment Operating Procedures

6.1 Regulatory Background

40 C.F.R. §403.8(f)(2) of the Pretreatment Regulations states, “The POTW shall *develop and implement* procedures to ensure compliance with the requirements of a Pretreatment Program.” [*emphasis added*] The Pretreatment Regulations identify these minimum procedures in 40 C.F.R. §403.8(f)(2)(i-viii) to include the following **implementation** activities, summarized below:

- Identify and locate all possible IUs that might be subject to the Pretreatment program;
- Obtain information describing the character and volume of wastes discharged by IUs;
- Notify IUs of all applicable Pretreatment standards and other applicable State or Federal standards or requirements;
- Review self-monitoring reports and other notices submitted by IUs;
- Randomly sample and analyze effluents from IUs;
- Evaluate whether each SIU needs a slug discharge control plan;
- Investigate instances of noncompliance with Pretreatment standards and requirements;
- Comply with public participation requirements.

The requirements listed in 40 C.F.R. §403.8(f)(2) include the **development** of procedures.

Adequate and updated standard operating procedures (SOPs) provide the following benefits to a Pretreatment program:

- Develop the baseline knowledge of the Pretreatment Regulations and establish the framework for program implementation,
- Adequately implement the authorities established in the municipal ordinance and ensure consistency in program implementation,
- Retain institutional and historical knowledge developed within the POTW's program, and
- Provide a valuable training resource for new or inexperienced staff members.

Ultimately, the benefits of valid SOPs to the Pretreatment program are increased efficiency, along with improved data comparability, credibility, and legal defensibility. In addition, the development of written SOPs and templates allow the EPA to determine if the procedures adequately implement the legal authority developed in the municipal ordinance/rules and regulations as required in 40 C.F.R. §403.8(f):

“A POTW Pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.”

6.2 Standard Operating Procedures (SOPs)

EPA evaluated the City's procedures and templates during the audit to ensure these meet the requirements listed in 40 C.F.R. § 403.8(f)(2). As previously discussed, developing SOPs are beneficial for the City's Pretreatment program but most importantly, to ensure adequate implementation of the authorities established in the municipal ordinance and ensure consistency in program implementation. EPA considers the Industrial User Inventory and Characterization, Sampling Plan/QA-QC, and the Enforcement Response Plan to be priority and required SOPs to develop. Besides these priority SOPs, the City has not developed the procedures or policies to implement other programmatic activities of the Pretreatment Regulations. The EPA recommends the City evaluate the necessity to develop SOPs for Pretreatment programmatic activities.

The EPA evaluated required Pretreatment SOPs and detailed comments are provided in later sections within this audit report:

- Industrial User Inventory and Characterization Procedures (*discussed in §7.0*),
- Sampling Plan, Site-Specific Sampling Protocol, Quality Assurance and Quality Control (*discussed in §10.0*), and
- Enforcement Response Plan and Data Compliance Evaluation (*discussed in §11.0*).

6.3 Templates

Templates and checklists are also critical to a Pretreatment program to ensure consistent and appropriate implementation of the Pretreatment regulations. The City has developed a permit application for discharging facilities and an SIU permit template. The permit

application appears to provide adequate information and data for the City to develop an appropriate control mechanism. The evaluation of the permit template is included in §8.4 of this audit report.

6.4 Records and Data Management

6.4.1 Regulatory Background

The recordkeeping requirements of the Pretreatment program are established in 40 C.F.R. §403.12(o)(1-3):

“(1) Any Industrial User and POTW subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices. Such records shall include for all samples:

- (i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods use; and
- (v) The results of such analyses.

(2) Any Industrial User or POTW subject to the reporting requirements established in this section (including documentation associated with Best Management Practices) shall be required to retain for a minimum of 3 years, any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Director and the Regional Administrator (and POTW in the case of an Industrial User). This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or POTW or when requested by the Director or the Regional Administrator.

(3) Any POTW to which reports are submitted by an Industrial User pursuant to paragraphs (b), [baseline monitoring reports] (d), [90-day compliance reports] (e), [categorical industrial user monitoring reports] and (h) [significant industrial user monitoring reports] of this section shall retain such reports for a minimum of 3 years and shall make such reports available for inspection and copying by the Director and the Regional Administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or the operation of the POTW Pretreatment Program or when requested by the Director or the Regional Administrator.”

6.4.2 Recordkeeping and Data Management Procedures

Based on information gathered during the audit, the POTW Supervisor maintains the SIU permit records in their office. The applicable correspondence from the service area, the IU inventory, and inspection reports are maintained in the Pretreatment Coordinator’s office.

Due to the Covid Pandemic and the remote nature of the audit, the physical recordkeeping and organization was not observed by EPA.

6.5 Receipt of Discharge Monitoring Reports and Notifications

The Pretreatment regulations in 40 C.F.R. §403.8(f)(2)(vii) require a POTW to “Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under §403.12 [IU compliance reports], or indicated by analysis, inspection, and surveillance activities [control authority monitoring].” This requires the POTW to ensure adequate receipt and tracking of self-monitoring reports and notifications, have procedures to evaluate the data and information contained within these reports and notices, and determine compliance with the Pretreatment standards (e.g., permit limits and conditions).

The monthly discharge monitoring reports from the only SIU, Dairy Farmers of America (DFA) are delivered by certified mail and are date stamped by the City upon receipt. The City evaluates the discharge monitoring reports and files the reports. Based on a review of the Pretreatment records documented in §8.4 of this audit report, it does not appear that the City is consistently evaluating the self-monitoring reports for compliance.

6.6 Management of Confidential Records

40 C.F.R. § 403.14 of the Pretreatment Regulations establishes the public availability of the Pretreatment records and the provisions to establish confidential business information (CBI). The City has incorporated the public availability and confidentiality requirements in Section 17-4-260 of the municipal ordinance:

“Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction subject to the provisions of the Colorado Open Records Law. In the event the EPA must obtain information and data on a user from reports, surveys, questionnaires, permit applications, permits and monitoring programs and from inspections, its access to this information shall be in accordance with federal regulations. Information and data which is effluent data will not be recognized as confidential information and will be available to the public without restriction.”

According to information gathered during the audit, the City does not maintain confidential business information.

7.0 Industrial User Inventory and Characterization

7.1 Regulatory Background

The Pretreatment Regulations state in 40 C.F.R. § 403.8(f)(2)(i-iii) that a POTW shall develop and implement procedures to ensure compliance with requirements of a Pretreatment Program. [These requirements are summarized after the regulation language in **bold** and *italics* font].

- i. “Identify and locate all possible Industrial Users which might be subject to the POTW Pretreatment Program. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Regional Administrator or Director upon request.” ***This requires a POTW to develop and maintain an inventory of IUs in the service area.***
- ii. “Identify the character and volume of pollutants contributed to the POTW by the Industrial Users identified under paragraph (f)(2)(i) of this section. This information shall be made available to the Regional Administrator or Director upon request.” ***This requires a POTW to characterize the IUs in the inventory of the service area.***
- iii. “Notify Industrial Users identified under paragraph (f)(2)(i) of this section, of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the Act and subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to 40 C.F.R. 403.8(f)(6), of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status.” ***These procedures must include the notification of IUs of applicable Pretreatment Standards and other applicable requirements.***

The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(6) state, “The POTW shall prepare and maintain a list of its non-domestic or Industrial Users meeting the criteria in §403.3(v)(1). The list shall identify the criteria in §403.3(v)(1) applicable to each Industrial User and, where applicable, shall also indicate whether the POTW has made a determination pursuant to §403.3(v)(2) that such Industrial User should not be considered a Significant Industrial User. The initial list shall be submitted to the Approval Authority pursuant to §403.9 or as a non-substantial modification pursuant to §403.18(d). Modifications to the list shall be submitted to the Approval Authority pursuant to §403.12(i)(1).”

The Pretreatment Regulations in 40 C.F.R. §403.12(i)(1) require that programs maintain an IU inventory that contains information on the IU’s status under the Pretreatment program. 40 C.F.R. §403.12(i)(1) states that a program shall maintain “An updated list of the POTW’s Industrial Users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. This list shall identify which Industrial Users are subject to categorical Pretreatment Standards and specify which Standards are applicable to each Industrial User. The list shall indicate which Industrial Users are subject to local standards that are more stringent than the categorical Pretreatment Standards. The POTW shall also list the Industrial Users that are subject only to local Requirements, such as local limits and site-specific BMPs. The list must also identify Industrial Users subject to categorical Pretreatment Standards that are subject to reduced reporting requirements under paragraph (e)(3) and identify which Industrial Users are Non-Significant Categorical Industrial Users.”

Approved Pretreatment programs are required by the Pretreatment Regulations to understand their service area and outside contributing jurisdictions, by developing and maintaining an inventory of IUs. In addition, the Pretreatment Regulations require a

Pretreatment program to characterize the IUs listed on the inventory and notify the IU of their status under the Pretreatment program. For example, the following characterizations may apply to an IU, based on information received from questionnaires, drive-by or facility inspections:

- The IU is not characterized as significant, based on volume and characteristic of the discharged wastewater.
- The IU is characterized as significant and issued a permit.
- The IU is not characterized as significant, but loadings need to be controlled using BMPs in a source control program.
- The IU is generating wastewaters that are significant but is characterized as a zero-discharging facility.

The **Industrial Waste Inventory and Characterization** or industrial waste survey (IWS)/IU inventory procedures are an important component to an effective Pretreatment program because this is a POTW's first exposure to the IUs, allows the POTW to determine if an IU is significant, notify the IU of its status under the Pretreatment regulations, and determine the appropriate type of control mechanisms for these facilities to protect the POTW and collection system.

7.2 Industrial User Identification and Characterization Procedure

The City has not developed an IU Identification and Characterization procedure that addresses methods to identify IUs in its service area, characterize their contribution of pollutants, notify these IUs of their status under the Pretreatment program, and to develop and maintain or update the IU inventory. As required by 40 C.F.R. §403.8(f)(2), “develop and implement procedures” that “enable the POTW” to comply with these Pretreatment Program requirements. A procedure and consistent implementation will ensure the City is identifying IUs, characterizing their pollutants, and including this information on the updated IU inventory. The City needs to develop an IU Identification and Characterization procedure.

7.3 Industrial User Database of the City's Service Area

The City has not developed an IU inventory of the service area, with the exception of the food service establishments (FSEs). Develop an Industrial User inventory that identifies all industrial users (sources of non-domestic wastewater) in its service area which includes the City and the outside contributing jurisdiction, the Town of Log Lane Village.

The City is required to provide recent characterization of the IUs on the inventory to identify flows and non-domestic pollutants that may impact the POTW and collection system. The City should develop a plan to maintain the IU inventory to ensure the information and records on the IUs capture current conditions. based on available tools to the City such as the industrial waste survey, drive by inspections, facility inspections, sampling, etc. to ensure the characterization of IUs is based on current data/information. IUs determined to be potentially significant to the POTW include, but not limited to the following IUs identified by EPA during the audit as potentially significant to the POTW:

- Cargill Meat Solutions
- Morgan Diesel Repair
- Camax Tool Co
- Machine Shop Services
- New Millenium Garden
- Zima Knives
- TruJet Precision
- IUs in the Town of Log Lane Village, an outside contributing jurisdiction to Fort Morgan's POTW
 - All Pro Automotive
 - Renegade Trailer Supply
 - Nature's Herbs and Wellness
 - American Car Dolly
 - Jerry's Auto Repair
 - Storm Trucks LLC

The City should collaborate with the local building department to ensure the Pretreatment program has approval authority for building permits or certificate of occupancies. This will help the Pretreatment program to gather information necessary for the IU Inventory. In addition, the City should collaborate and provide cross-training to the local Fire departments in the service area to help gather information on IUs that may be relevant to the Pretreatment program during their facility inspections.

The EPA currently provides "Pretreatment 101" webinar training, and a training for "Industrial User Inventory and Characterization Procedures," provided in September 2010, is archived at the following website:

<https://www.epa.gov/npdes/national-pretreatment-program-events-training-and-publications#pretreat101>

8.0 Control Mechanism (Permit) Evaluation and Permit Specific Issues

8.1 Regulatory Background

POTWs are required to issue control mechanisms to IUs identified through IU Inventory and Characterization procedures as SIUs. Individual permits or general control mechanisms authorize the discharge of wastewater to a POTW upon condition that the discharger complies with the permit limitations and conditions. An SIU permit is effective for only a limited period and should be revocable by the issuing authority at any time for just cause. In addition, the POTW's legal authority will typically include a provision that forbids the discharge of industrial wastewater from a SIU without a current permit.

The Pretreatment Regulations establish the required permit conditions in 40 C.F.R. § 403.8(f)(1)(iii)(B)(1-6) that include the following minimum elements:

1. Statement of duration (in no case more than five years);

2. Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
3. Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards, categorical Pretreatment Standards, local limits, and State and local law;
4. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards, categorical Pretreatment Standards, local limits, and State and local law;
5. Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
6. Requirements to control Slug Discharges, if determined by the POTW to be necessary.

The reporting and notification requirements in permit condition #4 above are found in 40 C.F.R. § 403.12 of the Pretreatment Regulations and include the following:

- Baseline Monitoring Reports – 403.12(b)
- Compliance Schedule Progress Reports – 403.12(c)
- 90-Day Compliance Reports – 403.12(d)
- CIU Periodic Compliance Reports – 403.12(e)
- Notice of Potential Problems, including Slug Loading – 403.12(f)
- Notification of Changes Affecting Slug Discharge Potential – 403.8(f)(2)(vi)
- 24-Hour Non-Compliance Notification – 403.12(g)
- SIU Periodic Compliance Reports – 403.12(h)
- Notification of Changed Discharge – 403.12(j)
- Notification of Hazardous Waste Discharge – 403.12(p)
- Notification of Bypass – 403.17

Under general principles of administrative law, permit applicants and other interested parties may challenge the POTW's permit decisions, including the permit limitations and conditions and the POTW's authority to issue the permit. The POTW must ensure that it has the requisite legal authority to impose Pretreatment Standards and Requirements in SIU permits and that it exercises its authority in a consistent and non-arbitrary manner. The local ordinance must clearly provide the POTW with the following authorities to support the permit requirements found in 40 C.F.R. § 403.8(f)(1)(iii):

- Authority to regulate all Industrial Users contributing wastewater to the POTW
- Authority to require and issue permits, orders, or other control mechanisms, including:
 - Authority to require Industrial Users to submit all data that the POTW deems relevant to permit decisions and provisions for public access to data.
 - Authority to enter, inspect, and sample to verify information supplied by the Industrial User as well as to assess the Industrial User's compliance status.

- Authority to incorporate local limits, including BMPs (if applicable).
- Authority to incorporate federal and state Pretreatment Standards and Requirements.
- Authority to require self-monitoring, record keeping, reporting, and notifications by the permittee.
- Authority to develop other appropriate permit conditions.
- Authority to enforce sewer use ordinance and discharge permit violations.
- Authority to require the development of a slug discharge control plan.

The POTW is required to establish the legal authority to require an IU to complete and file a permit application, with current information, to receive an initial or reissued permit. A permit application enables the POTW to obtain the information necessary to characterize the facility, to evaluate the quality and quantity of wastewater discharged, or projected to be discharged for a new facility, and to determine the applicable Pretreatment Standards and controls. The permit application serves as the formal request from the IU to discharge to the POTW and is required to be signed by a responsible corporate officer of the IU, as defined in 40 C.F.R. § 403.12(l) of the Pretreatment Regulations. In addition to the permit application, the POTW should evaluate, if available, historic IU effluent data, compliance reports, previous inspection reports, Safety Data Sheets, etc.

Throughout the permit drafting process, the POTW should carefully and thoroughly document each step in a permit rationale or statement of basis. A statement of basis is a document that provides a justification of the permit conditions and limits based on a characterization of the IU, its wastewater discharge, and the applicable Pretreatment Standards and Requirements. The statement of basis should include a description of the facility's production, process(es), wastewater generation/management, and discharge locations to adequately characterize the facility. The statement of basis should also identify the appropriate Federal, State, and Local Pretreatment Standards, based on the IU's characterization; and should provide justification for permit conditions and requirements, such as pollutants of concern, monitoring/reporting frequencies, representative sampling types, notification requirements, slug discharge control, operation and maintenance requirements, etc.

The statement of basis facilitates defending any challenges that the permit terms and conditions were developed arbitrarily or capriciously and provides the required documentation in the permit record of any relief from otherwise applicable requirements (i.e., pollutants not expected to be present, equivalent limits, decisions on general control mechanisms, decisions on Non-Significant Categorical Industrial User (NSCIU) classification, and decisions on reduced monitoring requirements). In addition, the statement of basis can serve as a resident document to preserve institutional knowledge and continuity for new or different staff members.

The EPA updated the IU Permitting Guidance Manual, 833-R-12-0001A in September 2012. This guidance manual supports the implementation of the permit conditions found in 40 C.F. R. § 403.8(f)(1)(B)(1-6) of the Pretreatment Regulations. The guidance manual is intended to provide both new and experienced permit writers with conceptual support and specific examples to strengthen their permit development expertise. The guidance

manual references technical guidance developed by the EPA regarding local limits, enforcing Pretreatment Standards and Requirements, controlling hauled waste, information regarding compliance inspections and sampling, and BMPs.

The IU Permitting Guidance Manual can be found at the following website:

https://www.epa.gov/sites/production/files/2015-10/documents/industrial_user_permitting_manual_full.pdf

8.2 The EPA's Evaluation of the City's Permitting Legal Authority

EPA evaluated the City's municipal ordinance to ensure it provides an adequate framework to require permit coverage, to deny or condition non-domestic wastewater contributions and to establish adequate permit conditions.

- Section 17.3.40 – establishes the requirement for SIUs to obtain a wastewater discharge permit.
- Section 17.3.90 – establishes the requirement for existing IUs to provide a permit application at least 90 days before the expiration of the permit.
- Section 17.3.30(d) – contains the permit application contents.
- Section 17.4.10(c) – establishes the authority for the City to deny or conditions wastewaters discharged to the public sewers.
- Section 17.3.40(a) – establishes the permit conditions to prevent Passthrough or Interference and to protect the POTW, worker health and safety, biosolids and the receiving stream water quality. As stated in Section 4.2 of this audit report, the City is required to update its ordinance to ensure the permit conditions comply with the Federal Pretreatment Regulations found in 40 CFR 403.8(f)(1)(B)(1-6).

8.3 Permit Template Overview

The City currently has one permitted SIU and has not developed a permit template. EPA evaluated the SIU permit issued to Dairy Farmers of America to ensure it complies with the permit conditions found in 40 C.F.R. § 403.8(f)(1)(iii)(B)(1-6) of the Pretreatment Regulations.

8.4 Specific Permit Record Findings

The City has identified one SIU in the service area that are issued wastewater discharge permits under the Pretreatment program. Findings from the EPA's review of the Pretreatment records, including the facility inspection report, statement of basis, permit, compliance evaluation, and enforcement records are listed below:

8.4.1 Pretreatment Records Overview

1. 40 C.F.R. § 403.12(o)(2) of the Pretreatment Regulations require the City to retain reports, notices, including BMPs for a minimum of three years and shall make the records available for inspection and copying by the EPA. The City needs to improve its recordkeeping to ensure the Pretreatment records are organized and complete, as evidenced in the DFA specific findings.

2. 40 C.F.R. § 403.8(f)(2)(iv) of the Pretreatment Regulations requires the City to “Receive and analyze self-monitoring reports and other notices submitted by the Industrial User.” The self-monitoring compliance reports were not consistently date stamped and EPA could not determine if these reports are received within the due date required by the permit. The City needs to consistently date-stamp the received self-monitoring reports and notices to ensure these are received within the permit-required compliance deadlines.

8.4.2 Dairy Farmers of America (DFA)

1. The current DFA permit issued on June 10, 2016 and expiring on May 31, 2021 did not implement the City’s current local limits approved by EPA on October 6, 2016. The Pretreatment Regulations at 40 CFR 403.8(f)(1)(iii) require the City to “Require compliance with applicable Pretreatment Standards and Requirements”. The City needs to ensure the reissued DFA permit includes applicable and current local limits.
 - a. The City needs to ensure the DFA permit is reissued and does not exceed the 5-year duration ceiling imposed by 40 CFR 403.8(f)(1)(B)(3) which states “Statement of duration (in no case more than five years).”
 - b. The City needs to public notice the permit if it continues to develop and incorporate site-specific limits for nitrate in the reissued DFA permit. The public noticed permit also needs to be submitted to EPA for evaluation and review.
2. 40 C.F.R. § 403.8(f)(2)(ii) require the City to “Identify the character and volume of pollutants contributed to the POTW.” Based on EPA’s review of the 2020 DFA inspection report, it does not adequately characterize the facility. The 2020 DFA inspection report needs to include more detail regarding the facility’s chemical storage/handling/transfer, process/unit operations, wastestream generation from these unit operations, wastestream management or wastewater treatment, sampling procedures to provide a current characterization.
3. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(iii) require the City to notify IUs of applicable Pretreatment Standards and Requirements. Based on EPA’s review, the Pretreatment records did not include notification or follow up to DFA regarding its current conditions and status under the Pretreatment program after the 2020 facility inspection.
4. The March 2020 compliance report was not included in the Pretreatment records. The City needs to determine if this report was misplaced or if DFA did not submit the monthly report, as required in their permit. If DFA failed to report, then the City needs to enforce according to its ERP.
5. DFA exceeded its permitted flow limit of 350,000 gallons per day (gpd) on 02/21/2021 with a daily flow of 0.35077 million gallons per day (mgd). The City needs to provide enforcement to this permit violation, according to its ERP.
6. DFA violated the ammonia permit limits in January 2021 on the sample dates identified below. In addition, DFA violated the following permit condition, (1)

failure to maintain pH continuous monitoring equipment and (2) failure to report bi-annual metals data. The City issued a notice of violation (NOV) that was received by DFA on 02/24/2021.

- i. 01/19/21 – 23.10 mg/L and 64.57 lbs/day
 - ii. 01/21/21 – 23.90 mg/L and 65.78 lbs/day
 - iii. 01/22/21 – 21.30 mg/L and 58.86 lbs/day
 - b. The NOV required DFA to submit to the City Manager within 5 days a written notice explaining the exact cause of the violations and DFA's plan to assure future discharges of total ammonia comply with the permit. The NOV also required DFA to provide written confirmation within 20 days that the corrective measures set forth in the NOV response have been implemented, together with an explanation.
 - c. DFA submitted a response dated 03/01/21 (the NOV response was not date stamped by the City) that adequately responded to the NOV. However, there were no records that DFA submitted written confirmation within 20 days, as required by the NOV. Ensure a 20-day written confirmation was received or enforce, according to the City's ERP.
7. DFA violated the ammonia permit daily maximum limits of 15 mg/L and 45 lbs/day on 02/21/21 with sampling results: 19.30 mg/L and 54.04 lbs/day. The City issued an NOV that was received by DFA on 03-22-2021.
- a. The NOV required DFA to submit to the City Manager within 5 days a written notice explaining the exact cause of the violations and DFA's plan to assure future discharges of total ammonia comply with the permit.
 - i. The DFA NOV response was received by the City on 04/05/21, past the 5 days required in the NOV. The City is required to provide enforcement for this failure to provide a timely response.
 - b. The NOV also required DFA to provide written confirmation within 20 days that the corrective measures set forth in the NOV response have been implemented, together with an explanation.
 - i. There were no records that DFA submitted written confirmation within 20 days, as required by the NOV. Ensure a 20-day written confirmation was received or enforce, according to the City's ERP.
8. 40 CFR 403.8(f)(2)(vi) of the Pretreatment Regulations require a POTW to "Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges. 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. For purposes of this subsection, 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

regulations, local limits or Permit conditions.”

- a. The January and February 2021 ammonia violations were determined by DFA to be caused by high production and incomplete treatment of the volume or the strength of the generated wastewater. The facility’s current slug discharge control plan dated 05/28/21 needs to be updated to include the slug discharge potential from high production and the capacity/design of the wastewater treatment plant to effectively treat this high production or high strength waste.

9.0 Significant Industrial User Facility Inspections

9.1 Regulatory Background

The General Pretreatment Regulations at 40 C.F.R. § 403.8(f)(1)(v) states that the POTW shall have the legal authority to:

“Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives of the POTW shall be authorized to enter any premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept under §403.12(o) to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided under section 308 of the Act;”

40 C.F.R. § 403.8(f)(2)(v) of the Pretreatment Regulations requires the POTW to inspect its SIUs at least once per year. 40 C.F.R. § 403.8(f)(2)(ii) require the City to “Identify the character and volume of pollutants contributed to the POTW.” 40 C.F.R. § 403.8(f)(2)(vii) establishes the standard of evidence collection during sampling or inspection activities:

“Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under §403.12, or indicated by analysis, inspection, and surveillance activities described in paragraph (f)(2)(v) of this section. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions.”

Typically, an inspector is the only representative from the POTW that regularly appears at the IU’s facility and significantly represents the POTW’s role as a responsible public agency, observing the actions and evaluating the performance of the regulated industry.

9.2 Right of Entry

The City has established the authority for right of entry in §17.4.40 of the municipal ordinance:

“(a) The City Manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the City Manager ready

access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, noncompliance investigation and the performance of any additional duties.

(b) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the City Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) Unreasonable delays in allowing the City Manager access to the user's premises shall be considered a violation of this Chapter.”

The municipal ordinance adequately establishes the right of entry authority for the City, as required in 40 C.F.R. § 403.8(f)(1)(v) of the Pretreatment Regulations.

9.3 Facility Inspection Records – Background

40 C.F.R. § 403.8(f)(2)(vii) of the Pretreatment Regulations requires the POTW to meet the criterion for evidence collection “with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions.” This is performed during facility inspections by adequate documentation in the inspection report of the observations, surveillance, inspections, sampling performed, and analysis gathered during facility inspections. A complete and well-developed inspection report that provides a current characterization of the facility will benefit the POTW’s Pretreatment program for programmatic decisions such as categorical determinations, slug discharge/spill potential, changes at the facility that may affect the current permit conditions, sampling frequencies, etc.

As discussed in §2.11.2 of the *Industrial User Inspection and Sampling Manual for POTWs*, EPA-831B17001, January 2017, the inspection report generated from the facility inspections should accomplish the following three objectives: 1) organize and coordinate all information in a comprehensive, usable manner for use by the POTW’s compliance personnel; 2) identify areas that may require follow-up activity; and 3) provide significant background information on the facility that can be reviewed prior to conducting subsequent inspections at the facility. The quality of this documentation will, to a large degree, determine how effective these follow-up activities will be at the facility. The information in the inspection report must be presented in a clear, concise, and well-organized manner.

The Industrial User Inspection and Sampling Manual for POTWs describes the information necessary to characterize a facility in §§2.10.3 and 2.12. The manual also discusses the records to review at a facility to help determine the facility’s compliance in §2.10.8. It is important for Pretreatment programs to capture the following information during facility inspections to characterize the facility, and document facility changes to ensure the SIU’s permit addresses current conditions:

- Chemical storage areas, including potential spill concerns during chemical receiving and transfer/handling.

- Process tanks or processing areas – detailed descriptions of the process including tank contents, capacities.
- Wastestream generation from the process areas and disposal/discharge practices – frequency of discharge rinse water tanks, whether spent chemical solutions tanks discharged to the POTW or hauled off site, proximity to floor/trench drains, slug discharge control and spill containment measures, etc.
- Wastestream management (treatment, recycling, hauling off site, evaporation, etc.).
- Waste treatment system.
- Wastestream or hazardous waste storage areas, including potential spill concerns.
- Discharge monitoring points.
 - Evaluation of the sampling/monitoring protocols to determine if these are appropriate to provide representative data of the wastewaters regulated by the permit.

A facility inspection of a permitted SIU should include a review of relevant records used to support compliance with the permit conditions and that may not be reported in the self-monitoring compliance reports such as pH and continuous flow monitoring records, tank change out logs, analytical reports, waste manifests, operation and maintenance logs, etc. A detailed facility inspection report with descriptions of tank contents, capacities, generated wastestreams, plumbing, and management of the wastestreams will benefit the POTW to establish the baseline for the year and to determine if any changes will impact the permit conditions/limits or associated documents such as the slug discharge control plan, spill plan, treatment system operation manual or sampling protocol.

During the Pretreatment audit, the EPA discussed inspection procedures with the City. The EPA performs facility inspections by gathering verbal information in an opening conference, then performing a walkthrough to visually confirm the information gathered during the opening interview. The EPA structures its information gathering by following the raw materials/chemical supply through the unit operations and ultimately to the finished product or service. A closing conference is performed to gather follow-up information, review records, and to provide preliminary conclusions to the facility.

9.4 Evaluation of the City's Inspection Reports/Records

The EPA evaluated the inspection reports and other records related to the facility inspection for the SIU annual facility inspection. As discussed in §§ 8.4.2(2) of this audit report, the 2020 inspection report for DFA provides minimal characterization of the facility and needs to be improved to include information regarding the facility's chemical storage/handling, process, (sources, flow volume and types of discharges) wastewater generation, slug discharge potential, waste treatment methods, sampling procedures, and review of records in the annual inspection report. The inspection reports should also include digital photos to further support information gathered during the inspection.

9.5 Notification of Applicable Pretreatment Standards

The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(iii) require the City to notify IUs of applicable Pretreatment Standards and Requirements. Based on the EPA's review of the

inspection records, it does not appear that the City is providing notification to the SIUs regarding the applicable Pretreatment Standards and applicable corrective action items as a follow-up to the facility inspections. The City needs to either provide a copy of the inspection report or follow-up correspondence to the IUs to meet this requirement.

9.6 Facility Inspections

Due to the Covid-19 pandemic and the remote Pretreatment audit, there were no onsite facility inspections completed.

10.0 Control Authority Compliance Monitoring

10.1 Regulatory Background

40 C.F.R. § 403.8(f)(1)(v) of the Pretreatment Regulations requires the POTW to have the legal authority to “Carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and requirements.” Further, 40 C.F.R. § 403.8(f)(2)(v) require a POTW to “Randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards. Inspect and sample the effluent from each Significant Industrial User at least once a year.”

The standard to which POTWs are held for purposes of evidence collection during a Control Authority monitoring event is outlined in 40 C.F.R. § 403.8(f)(2)(vii): “Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence which is admissible in enforcement proceedings or judicial actions.”

In addition, a POTW is required to ensure the Control Authority monitoring events are based on representative conditions at the monitoring point, to ensure that these sampling events are legally defensible and of the same quality as required for self-monitoring events. 40 C.F.R. § 403.12(g)(3) of the Pretreatment Regulations require, “The reports ... must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period.”

An enforceable sample must be representative of the nature and character of the discharges during the reporting period and is required to be representative in composition to that in the larger volume of wastewater being discharged. A POTW is required to implement a Control Authority monitoring program that meets the compliance monitoring requirements of the Pretreatment Regulations, provides representative data for compliance determinations, and that would be legally defensible in court, if such an enforcement action is taken by the POTW. In addition, representative and legally defensible data helps the POTW support other program objectives such as local limits evaluation, and permit development or reissuance.

10.2 Sampling Plan and Protocols

As required in 40 C.F.R. § 403.8(f)(2), the POTW shall “develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program.” The development and implementation of a sampling plan or procedures ensures the POTW is appropriately and consistently performing sampling or monitoring events, as well as providing enforceable data that is representative of the discharge conditions at the facility. The sampling plan should include the following:

- purpose and objective of the sampling program,
- specific sampling protocols at each facility sampling location to ensure representative sampling, and
- appropriate QA/QC procedures to ensure legally defensible data.

10.2.1 Site-Specific Sampling Protocols

The sampling protocols must include specific procedures used at each facility to ensure adequate and representative sampling protocols. The development of the sampling protocols will ensure the sampling events are performed in accordance with appropriate standards and procedures and produce quality data that is legally defensible.

At a minimum, the specific sampling protocols at each sampling location should include the following:

- Sampling locations – should include all monitoring points included in the SIU’s permit, including the use of digital photos for each monitoring point.
- Type of sample – the POTW is required to ensure the sampling event is representative of the SIU’s discharge, as required by 40 C.F.R. §403.12(g)(3). The type of sample will be dependent on the parameter to be sampled and discharge characteristics. The type of sample could include specifications for use of automatic samplers (including programming to provide representative sampling) or manual sampling techniques.
- Type of Flow Measurement – if applicable
- Parameters for Analysis – based on the SIU’s permit
- Sample Volume
- Type of Sample Containers
- Sample Preservation Techniques
- Sample Identification and Chain of Custody Procedures
- QA/QC Procedures

10.2.2 Quality Assurance/Quality Control (QA/QC)

QA and QC are tools which are necessary in a sampling program to maintain a level of quality, such as legally defensible data, in the measurement, documentation, and interpretation of sampling data. The QA/QC procedures are used to obtain data that are both precise (degree of closeness between two or more samples) and accurate (degree of closeness between the results obtained from the sample analysis and the true value that

should have been obtained). Proper implementation of QA/QC procedures will result in an increase in the POTW's confidence in the validity of the reported analytical data.

The QA/QC procedures used to ensure data collected is valid and legally defensible include, but are not limited to the following:

- equipment maintenance/calibration,
- proper sampling bottles, proper sampling techniques that are adequate and representative of the discharge from the facility,
- field blanks, equipment blanks, method blanks, standards, blind duplicates, and,
- ensuring sampling personnel are adequately trained.

10.3 The EPA Evaluation of the City's Control Authority Monitoring

10.3.1 SOPs

The City has not developed a sampling plan for DFA that describes sampling techniques and methods at the SIUs to ensure appropriate and representative sampling. The City needs to develop a DFA sampling plan, as required in 40 C.F.R. § 403.8(f)(2), to ensure consistent implementation of sampling techniques/methods and QA/QC to produce representative and enforceable data.

10.3.2 City's Control Authority Monitoring

Based on the EPA's review of the Pretreatment records, the City samples DFA at least once per year and meets the Control Authority monitoring frequency required in 40 C.F.R. § 403.8(f)(2)(v). The City is currently performing all permit-required sampling for DFA, including downloading the daily records from continuous pH and flow monitoring. This appears to be a significant resource for the City. EPA recommends the City require DFA to perform all of its self-monitoring, as required in its permit. The City can perform the oversight inspections and sampling at an appropriate frequency that it determines as necessary and utilize its resources in other Pretreatment implementation areas, such as the Industrial User Inventory and Characterization of its service area.

11.0 Enforcement

11.1 Regulatory Background

The EPA establishes the regulatory requirement to develop and implement an Enforcement Response Plan (ERP) in 40 C.F.R. § 403.8(f)(5)(i-iv) of the Pretreatment Regulations. The regulations state:

“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 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”

The development and implementation of an ERP is an important component of an effective Pretreatment Program. Although a successful Pretreatment program should provide outreach to facilities in the service area regarding the applicability of the Pretreatment Standards and compliance with these standards, in many situations, enforcement is the necessary driving force that makes the Pretreatment program functional.

The ERP establishes a framework for POTWs to formalize procedures for investigating and responding to instances of IU noncompliance and to ensure that POTWs enforce against IUs objectively, consistently, and equitably. A well-developed ERP should help the POTW decide what resources are needed to enforce the Pretreatment Standards/Requirements and assist in dealing with IU violations. In addition, the ERP will provide notice to the IUs regarding the POTW’s responsibility to respond to violations of Pretreatment Standards/Requirements.

11.2 Enforcement Legal Authority

The EPA evaluated the City’s enforcement authority and remedies found in its municipal ordinance.

1. Civil/Criminal penalties established in §17.6.110 and 17.6.120.
2. Injunctive relief provisions established in §17.6.100.
3. Authority to enforce against falsification/tampering established in §17.6.100(c).
4. Notice of violations authority established in §17.6.30.
5. Administrative orders authority established in §17.6.50.
6. Administrative penalty authority established in §17.6.70.
7. Show cause hearing provisions in §17.6.30.
8. Suspensions of service provisions in §17.6.10(a).
9. Permit termination provisions established in §17.6.20.
10. Publication of IUs in significant noncompliance in §17.4.260.

11.3 Enforcement Response Plan

The City submitted its ERP to the EPA for review, prior to the audit. Based on the EPA’s review, the ERP needs to be updated to include the following, in accordance with 40 C.F.R. § 403.8(f)(5)(i-iv): (*Note: the Fort Morgan ERP Review checklist will be enclosed with the audit report*)

- **Describe how the POTW will investigate instances of noncompliance;**
 - The City needs to address the implementation procedures utilized to investigate instances of noncompliance which includes procedures for

control authority monitoring and compliance evaluation/SNC calculations/determination procedures.

- **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;**
 - The City needs to establish escalating enforcement responses it will take for the following types of IU violations:
 - Unpermitted Discharges
 - Improper Sampling, Preservation or Analytical Methods
 - Reporting Violations or Deficiencies/Late Reports (BMRs, 90-day compliance reports, self-monitoring compliance reports, compliance schedule reports)
 - Including Late or Failure to Report which meets the SNC criteria
 - Tampering with monitoring equipment/methods
 - Recordkeeping
 - Dilution
 - Sector control programs and BMPs
 - SNC Narrative Criteria found in §17.1.20-Significant Noncompliance definition, #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.”
 - SNC Narrative Criteria found in §17.1.20-Significant Noncompliance definition, #G. “Failure to accurately report noncompliance.”
 - SNC Narrative Criteria found in §17.1.20-Significant Noncompliance definition, #H. “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.”
- **Identify (by title) the official(s) responsible for each type of response;**
 - The City’s current ERP does not identify the title of the Pretreatment official responsible and the time periods for each type of enforcement response.
- **Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards**
 - Section II.A – This section does not define a non-significant violation and if this non-significant violation be subject to enforcement? The City needs to define a non-significant violation and address this in the enforcement actions table.
 - Section II.B.4.5 – Administrative Fine and Penalties need to be updated to reference the \$25,000 penalty amount in the Municipal Ordinance §17-6-70 - Administrative Penalty and §17-6-110 - Civil Penalties

11.4 Compliance Evaluation

Based on EPA's review described in §§6.5 and 8.4 of this audit report, the City is inconsistent with evaluating the self-monitoring reports or notices for compliance.

11.5 SNC Calculations and Public Participation

40 C.F.R. § 403.8(f)(2)(viii) of the Pretreatment Regulations require a POTW to comply with the public participation requirements in the enforcement of National Pretreatment Standards. These procedures shall include a provision for at least annual public notification in a newspaper of general circulation, that provides meaningful public notice within the jurisdictions served by the POTW, of IUs which, at any time during the previous 12 months, were in SNC with applicable Pretreatment requirements. The SNC determinations are both calculation of numeric Pretreatment Standards, as listed in 40 C.F.R. § 403.8(f)(2)(viii)(A-D) and determination of violations of the narrative Pretreatment Standards, as listed in 40 C.F.R. § 403.8(f)(2)(viii)(E-H).

The City stated that it performs SNC calculations or determinations when violations occur. However, EPA did not find records for SNC determination of narrative criteria. The City needs to ensure that it evaluates and determines if the IUs are in violation of the narrative SNC criteria found in the municipal ordinance, §13.1217.1.20-Significant Noncompliance definition, #D-H.

12.0 Trucked and Hauled Waste

12.1 Regulatory Background

In addition to receiving wastes through the collection system, many POTWs accept trucked and hauled wastes. As stated in 40 C.F.R. § 403.1(b)(1), pollutants from nondomestic sources that are transported to the POTW by truck or rail are also subject to the Pretreatment Regulations. They may also be subject to categorical Pretreatment Standards. Therefore, hauled wastes from CIUs or hauled waste that otherwise qualifies the discharger as an IU must be regulated in accordance with the requirements of the Pretreatment Regulations, including any applicable requirements for permitting and inspecting the generating facility. Hauled wastes, like wastes received through the collection system, have the potential to negatively affect the POTW, making regulatory control of the wastes necessary.

Most wastewaters hauled or trucked to a POTW are domestic septage, typically from homes outside the POTW's service area, but compatible in nature. Because such discharges are predominantly compatible wastes, treatment at a POTW is the most appropriate disposal method. The biosolids regulations at 40 C.F.R. § 503.9(f) define domestic septage as the liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar system that holds only domestic sewage. Domestic septage does not include liquid or solid material removed from any system that receives either commercial wastewater or industrial wastewater, and it does not include grease removed from a restaurant grease trap.

The POTW cannot know for certain the nature and concentration of the trucked wastes and the impact on the POTW without implementing some type of control or surveillance program. Unlike discharges from IUs directly connected to the POTW, the makeup of a load of hauled waste is virtually unknown without some type of monitoring, be it visual or analytical. Even compatible loads of domestic septage can cause problems for a POTW due to high strength or discharge rate. Domestic septage can be partially digested, higher in metals concentrations than normal domestic wastes, or contain small amounts of household contaminants (e.g., cleaners). Similarly, disinfectants used in portable toilets have the potential to affect POTW operations.

Receipt of hauled hazardous waste (as defined in Resource Conservation and Recovery Act (RCRA)) might not only affect POTW operations but also could subject the POTW to additional reporting requirements. The Domestic Sewage Exclusion, specified in 40 C.F.R. § 261.4(a)(1)(ii), provides that hazardous wastes mixed with domestic sewage and under control of the Pretreatment program are exempt from the RCRA waste regulations. However, hazardous wastes received by truck or rail (or dedicated pipe) at the treatment plant are not exempt from the regulations. POTWs that accept hazardous wastes from those sources are subject to *permit by rule* status under RCRA [40 C.F.R. § 270.60(c)] provided that certain requirements are met. The POTW must be in compliance with all its NPDES permit requirements and the waste must comply with all federal, state, and local pretreatment requirements.

12.2 Legal Authority

The City has adopted the Federal specific discharge prohibitions for trucked and hauled wastes found in 40 C.F.R. § 403.5(b)(8) of the Pretreatment Regulations. This is incorporated by the City in §17.4.10(b)(8) of the municipal ordinance:

“Any trucked or hauled pollutants, except at discharge points designated by the POTW.”

In addition, the City incorporated specific liquid waste hauling regulations in §17.4.80 of the municipal ordinance that establish requirements for application, permitting, discharge location sampling, and reporting/waste tracking forms.

12.3 Trucked and Hauled Waste Disposal Location and Control Mechanisms

Despite the provisions established in the ordinance, the City currently does not accept trucked and hauled waste at its POTW.

According to information received during the audit, the City is aware of only one RV station in the service area and this is located in the parking lot of its City complex. The EPA recommends the City ensure adequate control/access to this location and recordkeeping to minimize or eliminate the potential for illicit discharges.

13.0 Best Management Practices – Sector Control Programs

13.1 Regulatory Background

BMPs are defined in 40 C.F.R. § 403.3(e) as “schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 C.F.R. § 403.5(a)(1) [General Prohibitions] and (b) [Specific Prohibitions]. 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.”

40 C.F.R. § 403.5(c)(4) states, “POTWs may develop Best Management Practices (BMPs) to implement paragraphs (c)(1) [develop limits to implement the general/specific prohibitions] and (c)(2) [develop and enforce specific effluent limits for industrial users that contribute pollutants that may result in Interference and Pass-Through] of this section. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.” The regulations establish that BMPs are enforceable Pretreatment Standards.

13.2 Authority in Rules and Regulations

The City established the authority to implement BMPs in its Rules and Regulations as follows:

- BMP definition in §17.1.20.
- BMP recordkeeping requirements in §17.4.230(a).
- BMPs established as a permit condition in §17.3.40(a).
- BMPs established as an SNC criterion in §17.1.20-SNC Definition.

13.3 Sector Control Programs

13.3.1 Oil and Grease Sector Control Program

The City has about 40 food service establishments (FSE) in the service area that have installed grease collection interceptors, based on the City’s sizing requirements. The City conducts inspections of newly installed grease interceptors to ensure they meet the City Code and sizing requirements. The City requires the FSEs to provide records of operation and maintenance of these grease interceptors.

13.4 Dental Amalgam BMP Sector Control Program

The Dental Amalgam Rule, found in 40 C.F.R. Part 441, was promulgated as a final rule with new source dental facilities required to be in compliance with the Pretreatment Standards as of July 14, 2017, and existing source dental facilities required to be in compliance as of June 14, 2020. Compliance with the rule requires the installation of an ISO1143 amalgam separator or equivalent device, and compliance with the following two BMPs:

- Prohibition on the use of oxidizing or chlorine-containing line cleaners; and
- Ensuring all amalgam process wastewater including chair-side traps, screens, vacuum pump filters, dental tools, cuspidors or collection devices are treated through the amalgam separator.

In addition, the new and existing dental facilities are required in 40 C.F.R. § 441.50 of the Dental Amalgam Rule to provide a report that characterizes the dental facility and certifies compliance. The new source dental facilities are required to be in compliance upon discharge and submit a one-time compliance report within 90 days of startup.

During the audit, EPA identified through a Google search the following dental offices in the service area:

- | | |
|--|---------------------------------|
| • Fort Morgan Family Dentistry | 1101 West Platte Avenue |
| • A Country Dentist | 107 West 9 th Avenue |
| • Dr. Marron Bruce DDS | 321 East Platte Avenue |
| • Dr. Rominder Kaur DDS | 909 East Railroad Avenue |
| • Dr. Jeanne Schoemaker DDS | 105 West 9 th Avenue |
| • Colorado Smiles Orthodontics | 109 West 9 th Avenue |
| • Salud Family Health Centers | 729 East Railroad Avenue |
| • Colorado Plains Oral and Maxillofacial Surgery | 527 West Platte Avenue |

There were no available records for these dental offices to identify if they are subject to the Dental Amalgam Rule. The City needs to characterize these and any other dental facilities in the service area to determine if the Dental Amalgam Regulations are applicable and provide enforcement to non-compliance with the rule requirements for amalgam separator installation, BMP and reporting requirements.