

Pretreatment Audit Report

City of Worland

WY-0020176

Worland, Wyoming

April 25, 2022 to April 29, 2022



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Pretreatment Audit Summary Table

City of Worland Pretreatment Audit Report

WY-0020176

April 25, 2022 to April 29, 2022

Pretreatment Audit Findings	Pretreatment Requirement and Corrective Action
<i>Section 3.0 – Resources</i>	
1. The Pretreatment Regulations at 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 procedures” of the Pretreatment program. Based on EPA’s review of the Pretreatment program and records, it does not appear that the City’s current resources (qualifications/training and policies) are not adequate to effectively implement the programmatic activities of the Pretreatment program. The current Pretreatment Coordinator devotes approximately 4 hours per week for implementation of the Pretreatment program, or 0.10 FTE.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(3) <u>Corrective Action Item</u> Submit a staffing plan to address the City’s commitment to the Pretreatment program, providing the number of FTE that will be dedicated to the Pretreatment program, details regarding training opportunities for the current staff and an evaluation of the current and projected scope of the Pretreatment program, in case of future non-domestic growth in the service area and in addition, to maintain institutional knowledge of the current program.
2. The FY 21 annual Pretreatment Report due annually on March 28 was blank including in the FTE portion and did not include the required information, as required in Part III.F(4.0) of the City’s NPDES permit, issued by the Wyoming Department of Environmental Quality.	<u>Pretreatment Requirements</u> NPDES Permit # WY-0020176, Part III.F(4.0) <u>Corrective Action Item</u> Complete the FY 21 Annual Pretreatment Report and resubmit to the EPA.
<i>Section 4.0 – Municipal Ordinance and Intergovernmental Agreements</i>	
3. 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.” The City provided its Pretreatment legal authority found in Chapter 23 – Water and Sewers, Article IV – Discharge into the Wastewater Collection and	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(1) 40 C.F.R. § 403.12(o)(2) <u>Corrective Action Item</u> Update the right of entry language in Section 23-87 of the municipal ordinance to establish the authority to examine and

Treatment System of the municipal ordinance for the EPA to review. Based on EPA's review, the Pretreatment Regulations incorporated in Chapter 23, Article IV of the municipal ordinance provide the City the framework to implement the Pretreatment Regulations in the POTW's service area with the following exceptions (the items are identified in the attached City of Worland Legal Authority Review):

The Pretreatment Regulations established in Chapter 23-Water and Sewers, Article IV-Discharge into the Wastewater Collection and Treatment System of the municipal ordinance provide the City the framework to implement the Pretreatment Regulations in the POTW's service area, with the following exceptions (as identified in the legal authority review):

- The Right of entry authority found in Section 23-87 of the municipal ordinance states the following: "The City shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. The City shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities."

The right of entry authority established in Section 23-87 of the municipal ordinance does not provide the City the authority to inspect and copy records, as required by 40 CFR 403.12(o)(2) of the Federal Pretreatment Regulations.

- The City has established Notice of Violations (NOV) as an enforcement remedy in its enforcement response plan. However, this enforcement action has not been established in the municipal ordinance.

copy records during compliance monitoring activities.

- Establish the authority to use notices of violation as an enforcement remedy in the municipal ordinance.

Recommended Action Item

The attached 2007 EPA Model Ordinance includes recommended language for establishing NOVs as an enforcement remedy:

"When [the Superintendent] finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent] may serve upon that User a written Notice of Violation. Within [xx] days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to [the Superintendent]. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of [the Superintendent] to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation."

4. 40 CFR 403.8(f)(1) of the Federal Pretreatment Regulations require the following: “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.” According to information gathered during the audit, the City has the following outside jurisdictions that contribute wastewater to the City’s POTW. South Flat Water and Sanitation District, Hillcrest Improvement and Service District, Mountain View Improvement and Sewer District, Sunset Improvement and Sewer District and Packerville Improvement and Sewer District. The City previously established IGAs with these outside contributing jurisdictions but these IGAs were dissolved by the Washakie County Commissioners. The justification for dissolving these IGAs is that these outside contributing jurisdictions are considered to be part of the City’s existing POTW. The municipal ordinance at 23-81 states: “This article shall apply to the City of Worland and, pursuant to Wyoming Statute Section 15-3-202(b)(i), as amended, to all persons and entities who are located within five miles of the corporate limits of the City or who are, by <u>contract or agreement</u> with Worland, users of Worland POTW. Except as otherwise provided herein, the Superintendent of Public Works, or his duly authorized agent or representative, has the authority to and shall administer, implement and enforce the provisions of this article.” [emphasis added].	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(1) <u>Corrective Action Item</u> Evaluate on whether the reference to the “Wyoming Statute Section 15-3-202(b)(i), as amended” in Section 23-81 of the municipal ordinance provides the City the authority to implement the Pretreatment ordinance to IUs located within five miles of the City boundaries. If the City does not have the authority by Wyoming Statute Section 15-3-202(b)9i), then the ordinance needs to be updated to remove this language. If the City is authorized by State statute to implement the Pretreatment ordinance to IUs located within five miles of the City boundaries, then the City needs to ensure these IUs are under appropriate contracts or agreements to ensure the City is authorized to implement the programmatic activities of the Pretreatment regulations at the IU.
<i>Section 4.0 – Local Limits</i>	
5. The City’s NPDES permit reissued by the WYDEQ and effective on May 1, 2022 include local limit requirements in Part III(F)(2.0)(d). The local limits requirements are as follows:	<u>Pretreatment Requirements</u> 40 C.F.R. § 122.44(j)(2)(ii) 40 C.F.R. § 403.5(C)(1)

“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. In accordance with 40 CFR 122.44(j)(2)(ii), a technical evaluation of the need to develop or revise local limits shall be submitted to the Approval Authority within 12 months of the effective date of this permit. This evaluation should be conducted in accordance with EPA’s "Local Limits Development Guidance" July 2004. 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 in accordance with 40 CFR 403.18.” The City’s reissued NPDES permit establishes the local limits technical evaluation required by 40 C.F.R. 122.44(j)(2)(ii) as “within 12 months of the effective date of this permit” or on May 1, 2023.	<u>Action Item</u> Develop a technical evaluation of the City’s local limits and if local limits are necessary, submit proposed local limits to the EPA in an approvable by May 1, 2023.
<i>Section 4.0 – Local Limits</i>	
6. 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 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	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(i-iii) 40 C.F.R. §441 <u>Corrective Action Item</u> Develop and maintain the industrial user inventory and provide current characterization of the IUs (all non-domestic users, including restaurants/food service establishments, dental facilities, other potential users) on the inventory to identify flows and non-domestic pollutants that may impact the POTW and the collection system. Determine which IUs on the IU inventory are outside the City boundaries and if these IUs have adequately signed agreements/contracts that allow the City to implement the Pretreatment program.

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 provided a current IU inventory of the IUs in its service area for EPA to review. The IU inventory has about sixty IUs identified. The EPA requested records on IUs selected to evaluate the status of IU inventory and characterization records such as surveys/questionnaires or facility inspections. The City’s response for the records request is included with the bulleted items:

- Swing Trucking-1004 Lane 10 ½; outside City boundaries without a signed service agreement/contract and an inspection/survey completed in 1994.
- Goyn Machine-200 Culbertson; inside City boundaries and an inspection/survey completed in 1990.
- QTC-420 Culbertson; inside City boundaries and no survey found
- Wortham Ralph Construction-1214 South Flat Road; outside City boundaries without a signed service agreement/contract

Based on EPA’s review, the IU inventory has not been maintained and does not representative current conditions in the service area. In addition, the IU inventory does not include non-domestic users such as food service establishments and dental offices. Dental industrial users have specific pretreatment requirements under 40 C.F.R. 441.

Section 8.0 – Control Mechanism (Permit) Evaluation and Permit Specific Issues

7. Based on EPA evaluation, the SIU permit template complies with the permit conditions found in the Pretreatment Regulations and Section 23-85(E) of the City’s municipal ordinance, with the following exception (The EPA’s evaluation is included in the attached Permit Template Checklist):

- The footnote ⁽²⁾ of Table 1 needs to be modified to be equivalent with the specific pH prohibition established in Section 23-83(A)(12) of the municipal ordinance.

Pretreatment Requirements

Municipal Ordinance, Section 23-85(E)

Municipal Ordinance, Section 23-83(A)(12)

Corrective Action Item

Modify footnote (2) of Table 1 in the permit template to be equivalent with the specific pH prohibition established in the municipal ordinance:

This finding was also identified in the in the 8.4.2 Admiral Beverage permit.	(Note: modification noted in <i>italics</i>): Any pH less than 5.5 <i>or higher than 11.0 or having any other corrosive property capable of causing damage or hazards to structures, equipment or personnel of the POTW</i> is a violation of this Permit and Section 23-83 of the City Code.
8. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(ii) require the City to “Identify the character and volume of pollutants contributed to the POTW.” • The Admiral Beverage inspection reports include minimal descriptions of the facility’s unit operations. • The Crown Cork and Seal inspection reports include minimal descriptions of the facility’s unit operations.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(ii) <u>Corrective Action Item</u> Provide more detail in the Admiral Beverage inspection reports to capture current conditions in the soft drink production, syrup production, bottle forming, and bottled water production areas. The inspection reports need to include records review including but not limited to, flow meter calibration required in the permit. Provide more detail in the Crown Cork and Seal inspection report that capture current conditions in the can-making production, including wastestream generated and management/treatment of these wastestreams. The inspection reports should also capture information on chemical storage, handling/transfer and usage for spill and slug discharge potential. The inspection reports need to include a review of relevant records.
9. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(iii), require an approved Pretreatment program to notify Industrial Users 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. There are no records indicating notification of the 2021 annual inspection of Admiral Beverage or Crown Cork and Seal.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(iii) <u>Corrective Action Item</u> Provide adequate notification to Admiral Beverage and Crown Cork and Seal after the annual facility inspection regarding findings or current conditions that may change the applicability of the Pretreatment Standards or applicable requirements. This notification may be included in a follow up letter or by providing a copy of the inspection report to the SIU.

10. The Pretreatment Regulations at 40 CFR 403.8(f)(1)(iii) require a POTW to “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.” Further, 40 C.F.R. § 403.8(f)(1)(iii)(B)(3) requires that the permit must be enforceable and at a minimum contain “Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law.” The permit issued to Admiral Beverage includes daily and monthly BOD and TSS limits at the following mass loadings: • BOD daily limit = 1,400 lbs/day, monthly limit = 980 lbs/day • TSS daily limit = 1,200 lbs/day, monthly limit = 720 lbs/day. The City has not developed BOD and TSS local limits in its municipal ordinance nor does the fact sheet provide justification and development of BOD and TSS as permit-specific limits.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(1)(ii) 40 C.F.R. § 403.8(f)(1)(iii)(B)(3) <u>Corrective Action Item</u> Evaluate the daily/monthly limits for BOD and TSS in the Admiral Beverage permit and determine how these limits are developed and if they are enforceable. EPA recommends the City determine if BOD and TSS limits are necessary for development in the required technical evaluation discussed in Section 5.4 of this audit report.
11. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to “Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices.” Section IV.A.1 of the Permit’s reporting section require the permittee to include “concentration, mass and measurements of all parameters for which there are self-monitoring requirements as specified in Section II.” • The Admiral Beverage permit in Section II-Table 1 establishes net BOD and TSS mass limits in lbs/day. In addition, the permit requires the SIU to calculate BOD and TSS loads at MP 001 (upstream manhole) and MP002 (downstream manhole) and calculate the Net BOD and TSS loading limit in lbs/day from these values. The compliance reports only include the laboratory reports in concentration and do not include the following calculations required by the permit: i. BOD and TSS loadings at MP 001	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) Admiral Beverage permit, Section IV.A.1 Admiral Beverage permit, Section II-Table 1 <u>Corrective Action Item</u> • Require Admiral to submit complete reports that include data and information to determine compliance with all permit limits. In addition, the City should provide an adequate enforcement response to this violation, according to its ERP. • Provide an adequate enforcement response to the Admiral Beverage’s 07/13/20 BOD violation of the daily max limit of 1, 400 lbs/day. The enforcement response needs to be in accordance with the City’s ERP.

ii. BOD and TSS loadings at MP002 iii. Calculations for the net BOD and TSS loadings. iv. The SIU's failure to provide complete reports is a violation of Section IV.A.1 of the SIU's permit. • Based on the City's review of the July 2020 self-monitoring report, the SIU had a violation of the BOD daily max limit of 1400 lbs/day. The SIU had a BOD of 1762.5 lbs/day on 07/13/2020. There does not appear to be an enforcement response to this violation. • The December 2021 self-monitoring report was not included in the Pretreatment records and was not located by the City during the audit. It does not appear that the SIU submitted a self-monitoring report for December 2021, which is a violation of the permit.	• Provide an adequate enforcement response to the Admiral Beverage's failure to submit a self-monitoring report for December 2021. The enforcement response needs to be in accordance with the City's ERP.
12. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to "Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices." Based on EPA's review of the City control authority monitoring of Admiral Beverage, the City is not investigating the SIU's compliance with its permit limits by using the BOD and TSS concentration data at MP001 and MP002 to calculate the net BOD and TSS loadings. The compliance reports only include the laboratory reports in concentration and do not include the calculations required by the permit; the City does not have records of any calculations completed by the City. EPA identified noncompliance with mass loading limits.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) <u>Corrective Action Item</u> Determine Admiral Beverage's compliance with the net BOD and TSS permit limits by calculating the mass loadings from control authority monitoring events.
13. The Admiral Beverage permit, Section II.F.1 requires the facility to report the following within 90 days of the permit reissuance date of February 27, 2018: • <u>6 Sumps identified in the facility schematic</u> – Provide a list of each sump, where it discharges to the City sewer, the pollutants and wastewater that are discharged or may be discharged to the sump, the volume of discharge that is or may be made into the sump and whether the sump has any protection from spills entering the sump and	<u>Pretreatment Requirements</u> Admiral Beverage permit, Section II.F.1 <u>Corrective Action Item</u> Determine if Admiral Beverage submitted a complete report meeting the requirements of Section II.F.1 of the permit. Provide an adequate enforcement response in accordance with the City's ERP if this report was not

ultimately the City sewer. Show each sump and the location of the sump connection to the facility plumbing system and discharge point to the City sewer. • <u>7 trench drains identified in facility schematic</u> – Provide a list of each trench drain, where it discharges to the City sewer, the pollutants and wastewater that are discharged or may be discharged to the trench drain, the volume of discharge that is or may be made into the trench drain and whether the trench drain has any protection from spills entering the trench drain and ultimately the City sewer. Show each trench drain and the location of the trench drain connection to the facility plumbing system and discharge point to the City sewer. • <u>46 Floor drains identified in facility schematic</u> – Provide a list of each floor drain, where it discharges to the City sewer, the pollutants and wastewater that are discharged or may be discharged to the floor drain, the volume of discharge that is or may be made into the floor drain and whether the floor drain has any protection from spills entering the floor drain and ultimately the City sewer. Show each floor drain and the location of the floor drain connection to the facility plumbing system and discharge point to the City sewer. • <u>City Sewer Manhole #1-located inside facility on east side</u> – report whether any wastes are discharge directly into his manhole #1, Specifically, identify all wastes and wastewater and their estimated volumes, if any, that are or may be discharged directly into this manhole #1. Is there any protection to prevent the introduction of wastes into the manhole from spills? • <u>City Sewer Manhole #2-located inside facility on west side</u> – Permittee reports that a containment lid has been installed and that there is no potential for a discharge entering this manhole. Certify that no discharge is made into this manhole #2. • <u>Identification of any discharges to City sewer line between the manhole on 10th street</u>	submitted to the City within 90 days of permit issuance.
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<u>(upstream) and manhole #1 inside facility</u> – Provide a list of any discharge points that are made in this part of the sewer line from connections in the sewer line. Identify what wastestreams are discharged or may be discharged through any identified connections. Show all connections on the facility schematic. • <u>Identification of any discharges to City sewer line between the manhole on 8th street (downstream) and manhole #2 inside facility</u> – Provide a list of any discharge points that are made in this part of the sewer line from connections in the sewer line. Identify what wastestreams are discharged or may be discharged through any identified connections. Show all connections on the facility schematic. • The City provided EPA a facility schematic showing the locations of the sumps, trench drains, floor drains and manholes but there does not appear to be supporting documentation, as required in Section II.F.1 of the permit.	
14. The Pretreatment Regulations at 40 CFR 403.8(f)(2)(vi) require a POTW to “Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges.” If a slug discharge control plan is necessary, the plan shall have at a minimum the following: • Description of discharge practices, including non-routine batch Discharges. • Description of stored chemicals. • Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under § 403.5(b) with procedures for follow-up written notification within five days. • If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents),	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vi) Crown Cork and Seal Permit, Section V.M <u>Corrective Action Item</u> Require Crown Cork and Seal to update its spill-slug discharge control plan to include plant characteristics including chemical storage, handling, transfer and measures or equipment in place to minimize or eliminate potential for slug discharges and spills.

and/or measures and equipment for emergency response. Section V.M of the permit requires Crown Cork and Seal to develop a slug discharge control plan. The SIU's current spill/slug discharge control is very general and not site-specific to its unit operations and processes.	
15. 40 CFR 403.8(f)(1)(iii) of the Pretreatment Regulations require a POTW to "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." Further, 40 C.F.R. § 403.8(f)(1)(iii)(B)(3) requires that the permit must be enforceable and at a minimum contain "Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law." The City did not determine the most stringent limit for the Crown Cork and Seal permit for chromium (Cr), copper (Cu), zinc (Zn) and oil and grease between its local limits and the categorical Pretreatment Standards and apply these in the facility's permit.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(1)(iii) 40 C.F.R. § 403.8(f)(1)(iii)(B)(3) <u>Corrective Action Item</u> Determine the most stringent mass limit from the calculated equivalent mass limits from the local limits for Cr, Cu, Zn, and Oil and Grease and the categorical Pretreatment Standards for Can Making found in 40 C.F.R. § 465.44. Update the Crown Cork and Seal permit to apply the most stringent limits.
16. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to "Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices." In addition, 40 C.F.R. § 403.12(o)(1)(i) states that the records of sampling and analysis shall include "The date, exact place, method, and time of sampling and the names of the person or persons taking the samples." The City has established MP001 in the Crown Cork and Seal permit as the compliance point but is not including this exact place in the City's sampling records such as the chain of custody and the analytical hard copies.	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) 40 C.F.R. § 403.12(o)(1)(i) <u>Corrective Action Item</u> Ensure the appropriate sampling location, MP 001 is included on the City's sampling records for Crown Cork and Seal, such as on the chain of custody and in the analytical hard copy data.
17. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to "Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices." Based on EPA's review of the City control authority monitoring of Crown Cork	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(2)(vii) <u>Corrective Action Item</u>

and Seal, the City is not investigating the SIU's compliance with its mass loading permit limits when the City conducts sampling.	Determine compliance with the mass permit limits during the City's annual compliance monitoring events.
<i>Section 11.0 – Enforcement</i>	
18. 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): • The Enforcement Response Plan (ERP) needs to be updated to meet the requirements established in 40 CFR 403.8(f)(5) of the Pretreatment Regulations and incorporated in Section 23-82 of the municipal ordinance. see attached ERP review and EPA's comments in ERP. i. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) that the POTW determines has caused Interference or Pass Through (including endangering the health of POTW personnel or the general public). (SNC Criteria # C) ii. Failure to accurately report noncompliance (SNC Criteria # G) iii. 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. (SNC Criteria # H)	<u>Pretreatment Requirements</u> 40 C.F.R. § 403.8(f)(5)(i-iv) Municipal Ordinance, Section 23-82 <u>Corrective Action Item</u> Update the enforcement response plan to be in compliance with 40 C.F.R. § 403.8(f)(5)(i-iv) of the Pretreatment Regulations and Section 23-82 of the municipal ordinance.

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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 Worland, WY (City) from April 25, 2022 through April 29, 2022. 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 April 25, 2022, at 8:00 a.m. with an opening interview. Pretreatment records were reviewed, and a closing conference was held on April 29, 2022, at 9:00 a.m. during which the EPA presented the preliminary observations, conclusions, and findings from the audit.

Participants in the audit included:

City of Worland, CO

Dan Ketterling	Pretreatment Coordinator/Chief Wastewater Operator
Nick Kruger	Public Works Superintendent
Joe Martinez	Wastewater Sewer Supervisor

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 23-Water and Sewers, Article IV-Discharge into the Wastewater Collection and Treatment System.
- 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 a Publicly Owned Treatment Works (POTW) located at 1000 Lane 10 ½, Worland, WY 82401. The POTW serves the boundary of the City of Worland and five outside contributing jurisdictions to the City. The outside contributing jurisdictions are identified as South Flats Water and Sanitation District, Hillcrest Improvement and Service District, Mountain View Improvement and Sewer District, Sunset Improvement and Sewer District, and Packerville Improvement and Sewer District. The service area for the POTW is shown in Figure 1, the Google Earth view of the City's POTW is shown in Figure 2, the POTW schematic flow is shown in Figure 3 and the POTW hydraulic design capacity is shown in Figure 4.

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 #WY-0020176, issued by the Wyoming Department of Environmental Quality (WYDEQ), contains provisions for an EPA-approved Pretreatment program in Part III.F. The permit was effective on May 1, 2017 and was scheduled to expire on April 30, 2022. The WYDEQ renewed the permit with an effective date of May 1, 2022.



POTW Service Area 2018

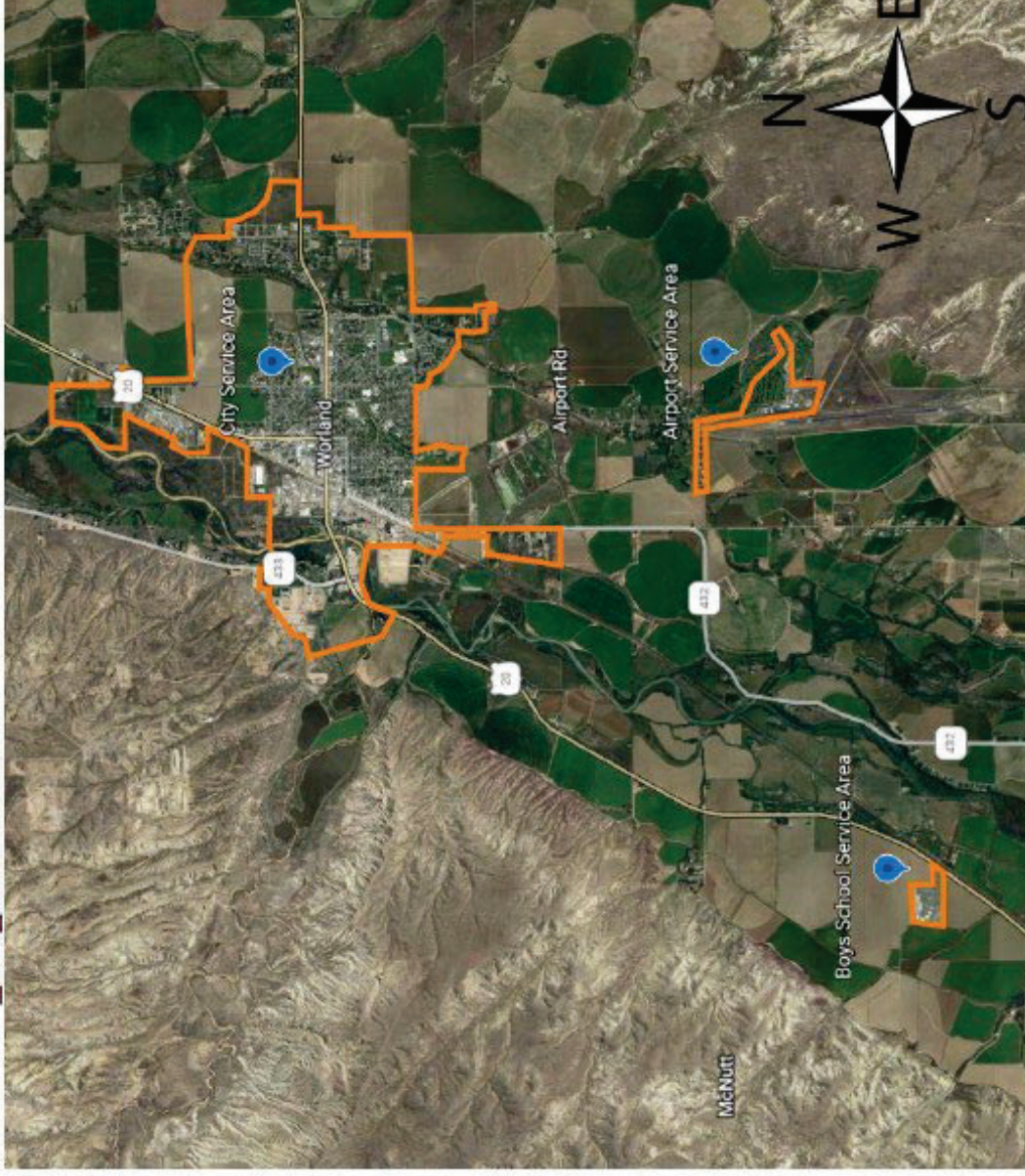


Figure 1 –City of Worland Service Area

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Figure 2 - City of Worland POTW, Google Maps View

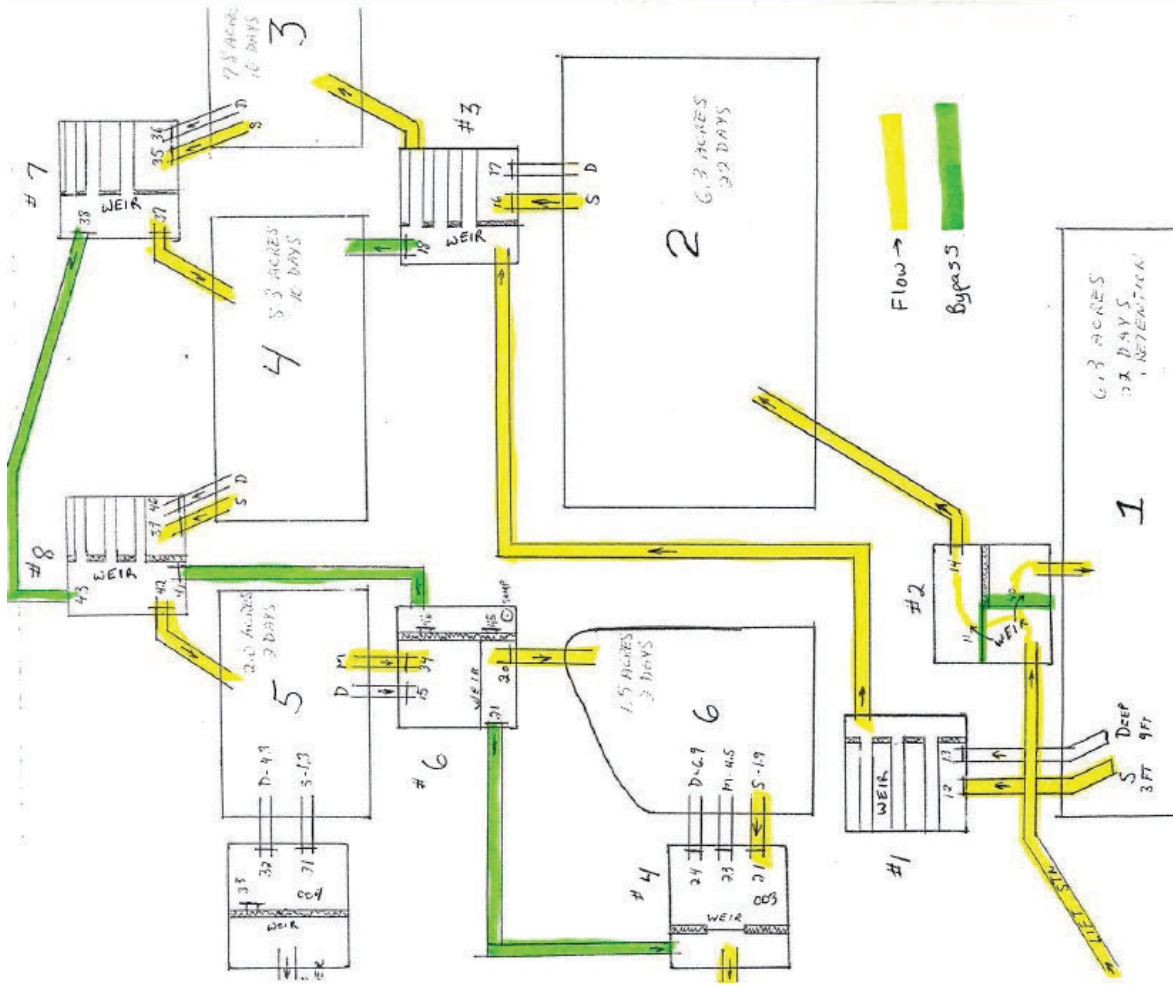


Figure 3 – Worland POTW Schematic Diagram

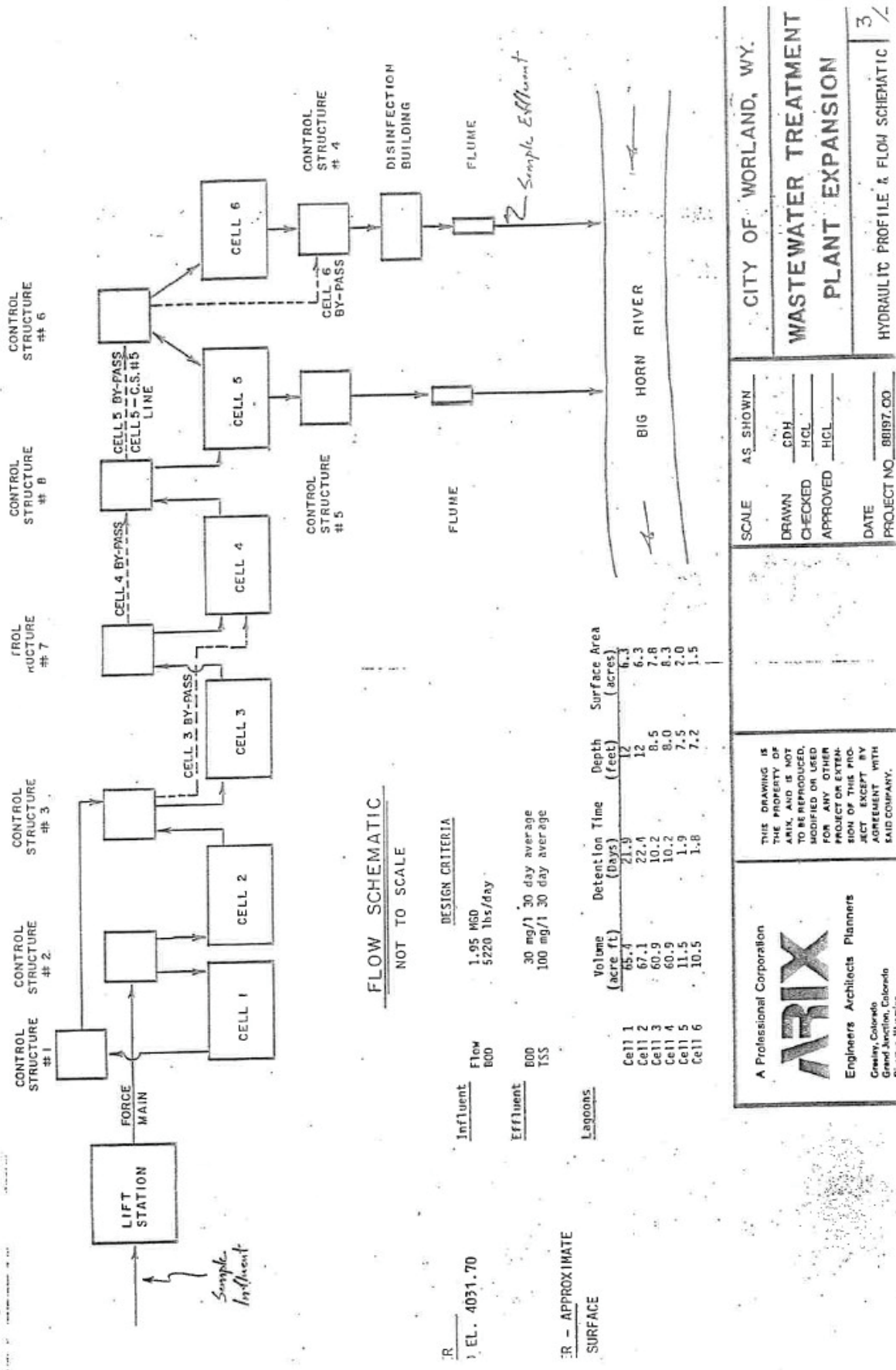


Figure 4 – Worland POTW Hydraulic Design Capacity

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*

EPA evaluated the City's FY 21 Pretreatment Report to determine the City's current resource commitment to its Pretreatment program, however, the FY 21 annual Pretreatment Report due annually on March 28 was blank including in the FTE portion and did not include the information required in Part III.F(4.0) of the City's NPDES permit, issued by the Wyoming Department of Environmental Quality. In response to this audit, resubmit a completed FY 21 Pretreatment report.

According to the information gathered during the audit, the City's resource commitment to the Pretreatment program is less than 0.25 FTE. The City's Pretreatment program is transitioning from the previous Pretreatment Coordinator, who recently left the City. The current Pretreatment Coordinator devotes approximately 4 hours per week for implementation of the Pretreatment program, or 0.10 FTE.

The Pretreatment Regulations at 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 procedures*" of the Pretreatment program. Based on EPA's review of the Pretreatment program and records, it does not appear that the City's current resources (qualifications/training and policies) are adequate to effectively implement the programmatic activities of the Pretreatment program. To ensure the City's ability to consistently implement the Pretreatment program in its service area, submit a staffing plan to address the City's commitment to the Pretreatment program, providing the number of FTE that will be dedicated to the Pretreatment program, details regarding training opportunities for the current staff and an evaluation of the current and projected scope of the Pretreatment

program, in case of future non-domestic growth in the service area and in addition, to maintain institutional knowledge of the current program.

3.3 Examples of Available Pretreatment Training/Resources

The EPA is available to help with training and outreach assistance to the Pretreatment personnel. In addition, there are opportunities for training and peer communication with the CIPCA and R8PA organization within Region 8. 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 provided by Region 8 Pretreatment Association 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-training-and-webinar>. 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 Worland Municipal Ordinance

The EPA approved the City's Pretreatment program on February 6, 1992. The EPA approved updates to the City's municipal ordinance on April 1, 1998 to update Pretreatment definitions, on February 13, 2003 to update general/specific prohibitions, and March 14, 2011 to incorporate the 2005 Pretreatment Streamlining Regulations.

The City provided its Pretreatment legal authority found in Chapter 23 – Water and Sewers, Article IV – Discharge into the Wastewater Collection and Treatment System of the municipal ordinance for the EPA to review. Based on EPA's review, the Pretreatment Regulations incorporated in Chapter 23, Article IV of the municipal ordinance provide the City the framework to implement the Pretreatment Regulations in the POTW's service area with the following exceptions (the items are identified in the attached City of Worland Legal Authority Review):

The Pretreatment Regulations established in Chapter 23-Water and Sewers, Article IV-Discharge into the Wastewater Collection and Treatment System of the municipal ordinance provide the City the framework to implement the Pretreatment Regulations in the POTW's service area, with the following exceptions (as identified in the legal authority review):

1. The Right of entry authority found in Section 23-87 of the municipal ordinance states the following: "The City shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. The City shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities."

- 1.1. The right of entry authority established in Section 23-87 of the municipal ordinance does not provide the City the authority to inspect and copy records, as required by 40 CFR 403.12(o)(2) of the Federal Pretreatment Regulations. The City needs to update the right of entry language in Section 23-87 of the municipal ordinance to establish the authority to examine and copy records during compliance monitoring activities.
2. The City has established Notice of Violations (NOV) as an enforcement remedy in its enforcement response plan. However, this enforcement action has not been established in the municipal ordinance. The City needs to establish the authority to use this enforcement remedy in its municipal ordinance. The attached 2007 EPA Model Ordinance includes recommended language for establishing NOVs as an enforcement remedy:
 - 2.1. “When [the Superintendent] finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent] may serve upon that User a written Notice of Violation. Within [xx] days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to [the Superintendent]. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of [the Superintendent] to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.”
3. The 2007 EPA Model Pretreatment Ordinance is attached with this audit report for the City to review.

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

According to information gathered during the audit, the City has the following outside jurisdictions that contribute wastewater to the City's POTW. South Flat Water and Sanitation District, Hillcrest Improvement and Service District, Mountain View Improvement and Sewer District, Sunset Improvement and Sewer District and Packerville Improvement and Sewer District. The City previously established IGAs with these outside contributing jurisdictions but these IGAs were dissolved by the Washakie County Commissioners. The justification for dissolving these IGAs is that these outside contributing jurisdictions are considered to be part of the City's existing POTW. The municipal ordinance at 23-81 states:

"This article shall apply to the City of Worland and, pursuant to Wyoming Statute Section 15-3-202(b)(i), as amended, **to all persons and entities who are located within five miles of the corporate limits of the City** or who are, by contract or agreement with Worland, users of Worland POTW. Except as otherwise provided herein, the Superintendent of Public Works, or his duly authorized agent or representative, has the authority to and shall administer, implement and enforce the provisions of this article." [**emphasis added**].

According to the City, the IUs outside the City boundaries are required to sign individual agreements/contracts to allow the City to implement the Pretreatment Regulations at the IU. The agreements/contracts have the following language: "I/We, further agree to abide by all City of Worland rules and regulations concerning water, sewer and sanitation uses." Any IU receiving service outside of City limits is required to complete this agreement/contract before service is provided.

40 CFR 403.8(f)(1) of the Federal Pretreatment Regulations require the following: "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." The City needs to evaluate on whether the reference to the "Wyoming Statute Section 15-3-202(b)(i), as amended" provides the Authority for the City to implement the Pretreatment ordinance to IUs located within five miles of the City boundaries. If the City does not have the authority by Wyoming Statute Section 15-3-202(b)(9i), then the ordinance needs to be updated to remove this language.

If the City is authorized by State statute to implement the Pretreatment ordinance to IUs located within five miles of the City boundaries, then the City needs to ensure these IUs are under appropriate contracts or agreements to ensure the City is authorized to implement the programmatic activities of the Pretreatment regulations at the IU.

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/hauled 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 reissued by the WYDEQ and effective on May 1, 2022 include local limit requirements in Part III(F)(2.0)(d).

5.3 The EPA Evaluation of the City's Local Limits

5.3.1 Technically-based Local Limits

The City's current local limits were public noticed and approved by the EPA on September 5, 2007. The local limits are established in §23-83(D) of the municipal ordinance and are expressed as a maximum allowable industrial loading (MAIL) that can be allocated to significant industrial users.

The local limits applicability language Section 23.83(D) is as follows:

“The City may allocate the maximum allowable industrial users through wastewater discharge permits. The total mass of pollutants allocated to significant industrial users shall not exceed the maximum allowable industrial loading. Following are the total allowable pounds per day for each pollutant that can be accepted at the headworks of the wastewater treatment plant by the sum total of all industrial users. The individual limitations for each industrial user shall be contained in said industrial user's discharge permit.”

Table 1 – City of Worland Local Limits

Pollutant	Symbol	Daily Maximum (lbs/day)
Arsenic, Total	As	0.4118
Cadmium, Total	Cd	0.1906
Chromium, Total	Cr	0.7223
Chromium III	Cr III	0.6729
Chromium VI	Cr VI	0.2645
Copper, Total	Cu	1.1070
Cyanide, Total	CN	2.0489
Lead, Total	Pb	0.3012
Mercury, Total	Hg	0.0005
Molybdenum, Total	Mo	0.3816
Nickel, Total	Ni	5.4934
Selenium, Total	Se	0.2576
Silver, Total	Ag	0.0268
Zinc, Total	Zn	18.6376

5.3.2 Numeric Ordinance Limits

In addition to the established technically-based local limits, the City has incorporated the following numeric ordinance limits in Section 23.83(a) 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:

- Lower Explosive Limit (LEL) [§23.83(a)(1)] - At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
- Fats, Oil and Grease [§23.83(a)(11)] – Containing more than 100 ppm by weight of fats, oils and grease
- pH [§23.83(a)(12)] - lower than 5.5 or higher than 11.0
- Petroleum-based Oil and Grease [§23.83(a)(17)(a)(1)] - Wastewater containing more than 25 milligrams per liter (25 mg/l) of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin.

5.3.3 Dilution Prohibition

The City has incorporated a prohibition on dilution in Section 23.83(E) of the municipal ordinance to ensure the IUs are appropriately managing their regulated wastestreams to meet compliance with an applicable Pretreatment Standard or Requirement:

“No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant specific limitation developed by the City or state.”

The dilution prohibition language in Section 23.83(E) meets the requirement in 40 C.F.R. 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

The City's NPDES permit reissued by the WYDEQ and effective on May 1, 2022 include local limit requirements in Part III(F)(2.0)(d). 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. In accordance with 40 CFR 122.44(j)(2)(ii), a technical evaluation of the need to develop or revise local limits shall be submitted to the Approval Authority within 12 months of the effective date of this permit.

This evaluation should be conducted in accordance with EPA's "Local Limits Development Guidance" July 2004. 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 in accordance with 40 CFR 403.18.”

The City’s reissued NPDES permit establishes the local limits technical evaluation required by 40 C.F.R. 122.44(j)(2)(ii) as “within 12 months of the effective date of this permit” or on May 1, 2023.

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 states, “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 23.83(F) of its municipal ordinance:

“The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 23-81 of this chapter.”

Based on the EPA’s review of the Pretreatment records, the City has not established site-specific limits in the SIU permits.

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 ensure consistent implementation of the City's legal authority. EPA evaluated these priority SOPs and provided comments in the following 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*).

It does not appear that the City has developed SOPs to implement the Pretreatment program in its service area, EPA recommends the City evaluate the need to develop Pretreatment procedures, as necessary.

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 Pretreatment Coordinator maintains the SIU permit and IU records in the office, located at the POTW. The SIU records are maintained in their own drawers and include information organized sequentially. The IU surveys and local limits records are also maintained in this office space. The relevant deadlines for the permitted SIUs are recorded on a wall calendar. The records are maintained for at least three years. Due to the Covid-19 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 (SMR) 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).

According to information gathered during the audit, the City physically picks up the self-monitoring reports from the SIUs when these are ready, Pepsi on a monthly frequency and Crown on a quarterly frequency. The City date stamps these reports as received, after it picks them up from the SIU. EPA recommends the City discontinue this practice and require the SIUs to ensure the self-monitoring reports and other required reports and notices are submitted within the permit-required due date. The City evaluates compliance, based on its review of the information in the reports and notifications.

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 13.10.801 of the municipal ordinance:

“A. 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 or other governmental agency without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

B. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

C. Information accepted by the City as confidential shall not be transmitted to any governmental agency, with the exception of the environmental protection agency which has immediate and unlimited access to all information collected by the City under its pretreatment program, or to the general public by the City until and unless a ten day notification is given to the user.”

According to information gathered during the audit, the City has not received 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).”

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

40 C.F.R. §403.8(f)(2) of the Pretreatment Regulations require the City to “develop and implement procedures” that “enable the POTW” to comply with these Pretreatment Program requirements. The City has not developed an IU Identification and Characterization procedure that describe current methods and procedures the City uses to identify and characterize IUs in the service area of its POTW and to notify these IUs of applicable Pretreatment Standards. EPA recommends the City develop an IU Identification and Characterization procedure to ensure the City’s IU Inventory and Characterization list is maintained and updated, as required in 40 C.F.R. § 403.8(f)(6) of the Pretreatment Regulations.

7.3 Industrial User Database of the City's Service Area

40 C.F.R. § 403.8(f)(2)(i-iii) of the Pretreatment regulations require the City to identify and locate all IUs in its service area, identify the character and volume of pollutants contributed by these IUs based on current information, and notify these IUs of applicable Pretreatment Standards and Requirements. It appears that the City collaborates with the internal Building department to identify new businesses moving into the service area or changes from existing industrial users. The City also uses local sources such as newspapers and knowledge of the service area to identify new businesses and changes to existing industrial users.

The City provided a current IU inventory of the IUs in its service area for EPA to review. The IU inventory has about sixty IUs identified. The EPA requested records on IUs selected to evaluate the status of IU inventory and characterization records such as surveys/questionnaires or facility inspections. The City's response for the records request is included with the bulleted items:

- Swing Trucking-1004 Lane 10 ½; outside City boundaries without a signed service agreement/contract and an inspection/survey completed in 1994.
- Goyen Machine-200 Culbertson; inside City boundaries and an inspection/survey completed in 1990.
- QTC-420 Culbertson; inside City boundaries and no survey found
- Wortham Ralph Construction-1214 South Flat Road; outside City boundaries without a signed service agreement/contract

Based on EPA's review, the IU inventory has not been maintained and does not represent current conditions in the service area. In addition, the IU inventory does not include non-domestic users such as food service establishments and dental offices. Dental industrial users have specific pretreatment requirements under 40 C.F.R. 441. Re-develop and maintain the industrial user inventory and provide current characterization of the IUs (all non-domestic users, including restaurants/food service establishments, dental facilities, other potential users) on the inventory to identify flows and non-domestic pollutants that may impact the POTW and the 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.

As discussed in Section 4.3.2 of this audit report, the City states that it requires all IUs outside City boundaries to sign an agreement/contract that allows the City to implement the Pretreatment program. During the development and maintenance of the IU Inventory, the City needs to determine which IUs are outside the City boundaries and if these IUs have adequately signed agreements/contracts that allow the City to implement the Pretreatment program for these IUs.

EPA recommends the City collaborate with the Fire Department because they are in the facilities in the service area and may provide additional information regarding potential for significant process/wastewater generation or spill/slug potential in the service area.

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)(iii)(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 23-85(A) – establishes the requirement for SIUs to obtain a wastewater discharge permit
- Section 23-85(B) –establishes the requirement for new IUs to provide a permit application at least 180 days and existing IUs at least 90 days before the expiration of the permit.
- Section 23-85(C) – contains the permit application contents.

- Sections 23-83(A) and 23-85(C) – establishes the authority for the City to deny or conditions wastewaters discharged to the public sewers.
- Section 23-85(E) – 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.

8.3 Permit Template Overview

EPA evaluated the City's permit template to ensure the City is incorporating the required permit conditions found in 40 C.F.R. § 403.8(f)(1)(iii)(B)(1-6) of the Pretreatment required Regulations and Section 23-85(E) of the City's municipal ordinance. The results of EPA's evaluation is included in Section 8.4.1.

8.4 Specific Permit Record Findings

The City has identified two IUs in the service area that is determined to be SIUs and that has been issued a permit under the Pretreatment program. One SIU, Crown Cork and Seal is subject to the Canmaking Pretreatment Standards for New Sources found in 40 CFR 465.44 and the City's local limits. The other SIU, Admiral Beverage is subject to the City's local limits. 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 Permit records Overview

1. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(ii) require the City to "Identify the character and volume of pollutants contributed to the POTW." The SIU inspection reports include minimal descriptions of the facility's unit operations. Facility inspection report need to include more detail regarding the SIU'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, including an evaluation of slug discharge potential and process or treatment plant changes.
2. Based on EPA evaluation, the SIU permit template complies with the permit conditions found in the Pretreatment Regulations and Section 23-85(E) of the City's municipal ordinance, with the following exception (The EPA's evaluation is included in the attached Permit Template Checklist):
 - a. The footnote (2) of Table needs to be modified to be equivalent with the specific pH prohibition established in Section 23-83(A)(12) of the municipal ordinance. (**Note:** modification noted in *italics*)
 - b. Any pH less than 5.5 or higher than 11.0 or having any other corrosive property capable of causing damage or hazards to structures, equipment or personnel of the POTW is a violation of this Permit and Section 23-83 of the City Code.

8.4.2 Admiral Beverage

1. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(ii) require the City to “Identify the character and volume of pollutants contributed to the POTW.” The SIU inspection reports include minimal descriptions of the facility’s unit operations. Facility inspection reports for Admiral should capture current conditions in the soft drink production, syrup production, bottle forming, and bottled water production areas. The inspection reports need to include records review including but not limited to, flow meter calibration required in the permit.
2. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(iii), require an approved Pretreatment program to notify Industrial Users 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. There are no records indicating notification of the 2021 annual inspection of Admiral Beverage. Provide adequate notification to the SIU after the annual facility inspection regarding findings or current conditions that may change the applicability of the Pretreatment Standards or applicable requirements. This notification may be included in a follow up letter or by providing a copy of the inspection report to the SIU.
3. 40 CFR 403.8(f)(1)(iii) of the Pretreatment Regulations require a POTW to “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.” Further, 40 CFR 403.8(f)(1)(iii)(B)(3) requires that the permit must be enforceable and at a minimum contain “Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law.” The permit issued to Admiral Beverage includes daily and monthly BOD and TSS limits at the following mass loadings:
 - a. BOD daily limit = 1,400 lbs/day, monthly limit = 980 lbs/day
 - b. TSS daily limit = 1,200 lbs/day, monthly limit = 720 lbs/day.
 - c. The City has not developed and incorporated BOD and TSS local limits in its municipal ordinance nor does the fact sheet provide justification and development of BOD and TSS as permit-specific limits. The City needs to determine how these limits are developed and if they are enforceable.
 - d. EPA recommends the City determine if BOD and TSS limits are necessary for development in the required technical evaluation discussed in Section 5.4 of this audit report.
4. Footnote ⁽²⁾ in Table 1 states the following: “Any pH less than 5.5 is a violation of this Permit and Section 23-83 of the City Code” This footnote conflicts with the pH limits of 5.5 – 11.0 established in Section 23-83(A)(12) of the municipal ordinance. The City needs to modify footnote ⁽²⁾ of Table 1 to be equivalent of the pH limit established in the ordinance.

5. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to “Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices.” Section IV.A.1 of the Permit’s reporting section require the permittee to include “concentration, mass and measurements of all parameters for which there are self-monitoring requirements as specified in Section II.”
 - a. The Admiral Beverage permit in Section II-Table 1 establishes net BOD and TSS mass limits in lbs/day. In addition, the permit requires the SIU to calculate BOD and TSS loads at MP 001 (upstream manhole) and MP002 (downstream manhole) and calculate the Net BOD and TSS loading limit in lbs/day from these values. The compliance reports only include the laboratory reports in concentration and do not include the following calculations required by the permit:
 - i. BOD and TSS loadings at MP 001
 - ii. BOD and TSS loadings at MP002
 - iii. Calculations for the net BOD and TSS loadings.
 - iv. The SIU’s failure to provide complete reports is a violation of Section IV.A.1 of the SIU’s permit. The City needs to require Admiral to submit complete reports that include data and information to determine compliance with all permit limits. In addition, the City should provide an adequate enforcement response to this violation, according to its ERP.
 - b. Based on the City’s review of the July 2020 SMR, the SIU had a violation of the BOD daily max limit of 1400 lbs/day. The SIU had a BOD of 1762.5 lbs/day on 07/13/2020. There does not appear to be an enforcement action. The City needs to provide an adequate enforcement response to this violation, according to its ERP.
 - c. The December 2021 SMR was not included in the Pretreatment records and was not located by the City. It does not appear that the SIU submitted an SMR for this time period, which is a violation of the permit. The City needs to provide an adequate enforcement response to this violation, according to its ERP.
6. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to “Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices.” Based on EPA’s review of the City control authority monitoring of Admiral Beverage, the City is not investigating the SIU’s compliance with its permit limits by using the BOD and TSS concentration data at MP001 and MP002 to calculate the net BOD and TSS loadings. The City needs to determine compliance with the net BOD and TSS permit limits by calculating the mass loadings from control authority monitoring events.
7. The Admiral Beverage permit, Section II.F.1 requires the facility to report the following within 90 days of the permit reissuance date of February 27, 2018:

- a. 6 Sumps identified in the facility schematic – Provide a list of each sump, where it discharges to the City sewer, the pollutants and wastewater that are discharged or may be discharged to the sump, the volume of discharge that is or may be made into the sump and whether the sump has any protection from spills entering the sump and ultimately the City sewer. Show each sump and the location of the sump connection to the facility plumbing system and discharge point to the City sewer.
- b. 7 trench drains identified in facility schematic – Provide a list of each trench drain, where it discharges to the City sewer, the pollutants and wastewater that are discharged or may be discharged to the trench drain, the volume of discharge that is or may be made into the trench drain and whether the trench drain has any protection from spills entering the trench drain and ultimately the City sewer. Show each trench drain and the location of the trench drain connection to the facility plumbing system and discharge point to the City sewer.
- c. 46 Floor drains identified in facility schematic – Provide a list of each floor drain, where it discharges to the City sewer, the pollutants and wastewater that are discharged or may be discharged to the floor drain, the volume of discharge that is or may be made into the floor drain and whether the floor drain has any protection from spills entering the floor drain and ultimately the City sewer. Show each floor drain and the location of the floor drain connection to the facility plumbing system and discharge point to the City sewer.
- d. City Sewer Manhole #1-located inside facility on east side – report whether any wastes are discharge directly into his manhole #1, Specifically, identify all wastes and wastewater and their estimated volumes, if any, that are or may be discharged directly into this manhole #1. Is there any protection to prevent the introduction of wastes into the manhole from spills?
- e. City Sewer Manhole #2-located inside facility on west side – Permittee reports that a containment lid has been installed and that there is no potential for a discharge entering this manhole. Certify that no discharge is made into this manhole #2.
- f. Identification of any discharges to City sewer line between the manhole on 10th street (upstream) and manhole #1 inside facility – Provide a list of any discharge points that are made in this part of the sewer line from connections in the sewer line. Identify what wastestreams are discharged or may be discharged through any identified connections. Show all connections on the facility schematic.
- g. Identification of any discharges to City sewer line between the manhole on 8th street (downstream) and manhole #2 inside facility – Provide a list of any discharge points that are made in this part of the sewer line from connections in the sewer line. Identify what wastestreams are discharged or may be discharged through any identified connections. Show all connections on the facility schematic.

- h. The City provided EPA a facility schematic showing the locations of the sumps, trench drains, floor drains and manholes but there does not appear to be supporting documentation, as required in Section II.F.1 of the permit. The City needs to determine if a complete report meeting the requirements of Section II.F.1 of the permit was submitted. If this report was not submitted to the City within 90 days of permit issuance, then this is a permit violation and the City needs to provide an adequate enforcement response to this violation, according to its ERP.

8.4.3 Crown Cork and Seal

1. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(ii) require the City to “Identify the character and volume of pollutants contributed to the POTW.” The SIU inspection reports include minimal descriptions of the facility’s unit operations. The facility inspection report for Crown should capture current conditions in the can-making production, including wastestream generated and management/treatment of these wastestreams. The inspection reports should also capture information on chemical storage/handling/transfer and usage for spill and slug discharge potential. The inspection reports need to include a review of relevant records. (note: fact sheet includes detailed process information)
2. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(iii), require an approved Pretreatment program to notify Industrial Users 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. There are no records indicating notification of the 2021 annual inspection of Crown Cork and Seal. The City is required to provide adequate notification to the SIU after the annual facility inspection regarding findings or current conditions that may change the applicability of the Pretreatment Standards or applicable requirements. This notification may be included in a follow up letter or by providing a copy of the inspection report to the SIU.
3. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vi) require a POTW to “Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges.” If a slug discharge control plan is necessary, the plan shall have at a minimum the following:
 - a. Description of discharge practices, including non-routine batch Discharges.
 - b. Description of stored chemicals.
 - c. Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under § 403.5(b) with procedures for follow-up written notification within five days.
 - d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment,

measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

- e. Section V.M of the permit requires the SIU to develop a slug discharge control plan. The SIU's current spill/slug discharge control is very general and not site-specific. The spill-slug discharge control plan needs to be modified to include plant characteristics including chemical storage, handling, transfer and measures or equipment in place to minimize or eliminate potential for slug discharges and spills.
4. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(1)(iii) require a POTW to "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." Further, 40 C.F.R. § 403.8(f)(1)(iii)(B)(3) requires that the permit must be enforceable and at a minimum contain "Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law." The permit issued to Crown Cork and Seal does not include the most stringent limit for chromium (Cr), copper (Cu), zinc (Zn) and oil and grease. The City needs to determine and apply the most stringent mass limit from the calculated equivalent mass limits from the local limits for Cr, Cu, Zn, and Oil and Grease and the categorical Pretreatment Standards for Can Making found in 40 CFR 465.44.
5. Footnote ⁽²⁾ in Table 1 states the following: "Any pH less than 5.5 is a violation of this Permit and Section 23-83 of the City Code" This footnote conflicts with the pH limits of 5.5 – 11.0 established in Section 23-83(A)(12) of the municipal ordinance. The City needs to modify footnote ⁽²⁾ of Table 1 to be equivalent of the pH limit established in the ordinance.
6. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to "Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices." In addition, 40 CFR 403.12(o)(1)(i) states that the records of sampling and analysis shall include "The date, **exact place**, method, and time of sampling and the names of the person or persons taking the samples." The City has established MP001 in the facility's permit as the compliance point but is not including this exact place in the City's sampling records such as the chain of custody and the analytical hard copies. The City needs to include the appropriate sampling location, MP 001 in its sampling records, such as on the chain of custody and in the analytical hard copy data.
7. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(vii) require the City to "Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices." Based on EPA's review of the City control authority monitoring of Crown Cork and Seal, the City is not investigating the SIU's compliance with its mass loading permit limits when the City conducts sampling. The City needs to determine compliance with the mass permit limits during the City's annual compliance monitoring events.

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 §13.10.701 of the municipal ordinance:

“A. The director shall have the right to enter the premises of any industrial user to determine whether the industrial user is complying with all requirements of this chapter and any control mechanism or order issued hereunder. Industrial users shall allow the director ready access to all parts of the premises for the purposes of inspection, identifying the character or volume of pollutants, sampling, records examination and copying, photographs, noncompliance investigation, and the performance of any additional duties.

B. Where an industrial user has security measures in force that require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security personnel so that, upon presentation of City of Worland staff identification, staff will be permitted to enter without delay for the purposes of performing specific responsibilities.

C. The director may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

E. Unreasonable delays in allowing the director access to the industrial user's premises shall be 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, including EPA's procedures. 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 inspections of Admiral Beverage and Crown Cork and Seal. As discussed in § 8.4.1(1) of this audit report, the SIU inspection reports 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. As discussed in §§ 8.4.2(2) and 8.4.3(2) of this audit report, There are no records indicating notification of the 2021 annual inspection of Admiral Beverage and Crown Cork and Seal. The City is required to provide adequate notification to the SIUs after the annual facility inspection regarding findings or current conditions that may change the applicability of the Pretreatment Standards or applicable requirements. This notification may be included in a follow up letter or by providing a copy of the inspection report to the SIU.

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 needs to develop a sampling SOP that includes an overview of the sampling objectives, quality control and site-specific sampling protocols at each SIU and the sample data is valid and enforceable. The sampling SOP needs to include QA/QC samples such as equipment blanks, trip blanks, sample duplicates, matrix spikes, control standards to ensure the sampling and analytical techniques are in control and compliance with 40 C.F.R. 136. In addition, the sampling plan needs to ensure the site-specific sampling protocols at the SIUs are representative and current, based on the SIU's wastewater discharge for the production day.

10.3.2 City's Control Authority Monitoring

Based on the EPA's review of the Pretreatment records, the City samples the permitted SIUs at least once per year and meets the Control Authority monitoring frequency required in 40 C.F.R. § 403.8(f)(2)(v).

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 §§23-93(D) and 23-93(2)(C)
- 2. Injunctive relief provisions established in §23-93(B,C)
- 3. Authority to enforce against falsification/tampering established in §23-93(E)
- 4. As discussed in Section 4.2 of this audit report, the City needs to establish Notice of violations authority
- 5. Administrative orders authority established in §23-92
- 6. Show cause hearing provisions in §23-92(A)
- 7. Suspensions of service provisions in §23-90(F)
- 8. Permit termination provisions established in §23-91
- 9. Publication of IUs in significant noncompliance in §23-88

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 Worland ERP Review checklist is enclosed with the audit report*):

- The Enforcement Response Plan (ERP) needs to be updated to meet the requirements established in 40 CFR 403.8(f)(5) of the Pretreatment Regulations and incorporated in Section 23-82 of the municipal ordinance. (EPA Comments are included in the attached City of Worland - ERP Checklist and embedded in the 13 b Worland Enforcement Response Plan 2019-EPA)
 - Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) that the POTW determines has caused Interference or Pass Through (including endangering the health of POTW personnel or the general public). (SNC Criteria # C)
 - Failure to accurately report noncompliance. (SNC Criteria # G)
 - 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. (SNC Criteria # H)

11.4 Compliance Evaluation

Based on EPA's review described in §8.4 of this audit report, the City needs to ensure it adequately evaluates for compliance with permit limits established in the Admiral Beverage and Crown Cork and Seal permits.

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).

Based on EPA's review of the Pretreatment records, the City should ensure it performs SNC determinations of numeric and narrative criteria, as necessary.

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 §23-83(A)(15) of the municipal ordinance:

“Which is trucked or hauled, except at discharge points designated by the POTW”

12.3 Trucked and Hauled Waste Disposal Location and Control Mechanisms

According to information gathered during the audit, The City does not accept trucked and hauled waste at its POTW. As discussed during the audit, the City should evaluate RV

dump stations in the service area of the POTW to ensure they are in control and do not allow illicit trucked waste to be discharged.

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 §23-82.
- BMPs established as a permit condition in §23-85(E)(15).
- BMP recordkeeping requirements in §23-87(G)..
- BMPs established as an SNC criterion in §23-82-SNC Definition.

13.3 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.

The City has identified two dental facilities in the service area and has received one-time compliance reports within the deadline required by the Rule.