

COUNCIL ACTION FORM

SUBJECT: REVISIONS TO AMES MUNICIPAL CODE RELATING TO THE NON-DOMESTIC WASTE PRETREATMENT PROGRAM

BACKGROUND:

On October 14, 2005, revisions were published to the Code of Federal Regulations 40 CFR Part 403. These revisions adopted the U.S. Environmental Protection Agency (EPA) Pretreatment Streamlining Rule which is designed to reduce the overall regulatory burden of the program on both industrial users and control authorities (i.e. utilities) without adversely affecting environmental protection. The streamlining rule is composed of both required and optional regulatory changes. The rule also provides the City of Ames with the ability to focus resources on industries that have a greater potential to affect the Water Pollution Control Facility and allows for reduced regulatory burden for industrial users that pose little or no threat to the treatment facility.

On September 1, 2010, the Water Pollution Control Facility received a new National Pollutant Discharge Elimination System (NPDES) permit. As part of the new permit requirements, the City is required to review the pretreatment streamlining rules and make revisions to its local code no later than September 1, 2011, adopting the required portions of the rule and any optional portions of the rule the City feels are necessary. Staff has completed that review and is recommending Council adopt the attached modifications to the *Ames Municipal Code*.

While many of the required components of the streamlining rule have already been put into practice, they must be officially adopted into local code. In addition to adopting all required rule changes, adopting all optional rule changes allows the greatest flexibility in administering the pretreatment program and allows the program to be easily adapted to new industries and program changes. Staff has shared details of the proposed revisions with utility customers who are currently covered by the program.

First reading is requested at this Council meeting, with the second and third reading and final adoption planned for the August City Council meetings. This schedule will allow staff time to certify the adoption of the federal pretreatment streamlining rule to the Iowa Department of Natural Resources (IDNR) by September 1, 2011.

ALTERNATIVES:

1. Approve implementation of all components of the EPA Pretreatment Program Streamlining Rule and perform the first reading to modify the *Ames Municipal Code* to adopt all EPA Pretreatment Program Streamlining Rule regulations.

2. Approve implementation of required components only of the EPA Pretreatment Program Streamlining Rule and perform the first reading to modify the *Ames Municipal Code* to adopt only the required EPA Pretreatment Program Streamlining Rule regulations.
3. Do not approve any of the EPA Pretreatment Program Streamlining Rule changes at this time. Failure to adopt the required elements of these rule changes by September 1, 2011 would place the City of Ames in violation of its NPDES permit for the Water Pollution Control Facility.

MANAGER'S RECOMMENDED ACTION:

Adoption of the required components of the EPA Pretreatment Program Streamlining Rule into local code is required by September 1, 2011 in order for the City of Ames to maintain compliance with the Water Pollution Control Facility's NPDES permit. Adoption of the optional components of the pretreatment streamlining rule will allow the City flexibility in administering the Non-Domestic Wastewater Pretreatment Program and will reduce the regulatory burden on local industry without adversely affecting environmental protection. **A summary of the proposed rule changes are highlighted below.**

Therefore, it is the recommendation of the City Manager to adopt Alternative No. 1, thereby approving implementation of all components of EPA's Pretreatment Program Streamlining Rule and carrying out the first reading to modify the *Ames Municipal Code* to adopt all EPA Pretreatment Program Streamlining Rule regulations.

WATER AND POLLUTION CONTROL DEPARTMENT

Non-Domestic Waste Pretreatment Program Streamlining Rule Changes and Effects on Non-Domestic Users

1. Rule Change: Waiver of Sampling for Pollutants Not Present

In the previous version of the code, Categorical Pretreatment Standards required sampling for certain pollutants even if sources of the pollutants did not exist at a facility. This rule change provides a method for the City to waive sampling for pollutants not present at a categorical facility. This change may reduce the sampling and analysis required by categorical industries, given an industry can prove such pollutants are not present in their wastewater discharges. **Adoption of this provision is optional.** *CFR cite(s): 403.8(f)(2)(v), 403.12(e)(2)*

2. Rule Change: Use of General Control Mechanisms

Previous versions of the code required that each non-domestic user have an individual pretreatment permit. This code revision allows the City to use general control mechanism (i.e. general permits) to apply similar local limits and pretreatment requirements to non-domestic users with similar processes. As a result, it provides the City with a consistent means of issuing permits and enforcing pretreatment regulations for similar non-domestic users. This rule change has no affect on non-domestic users currently subject to the pretreatment program. **Adoption of this provision is optional.** *CFR cite(s): 403.8(f)(1)(iii)*

3. Rule Change: Use of Best Management Practices (BMPs) as Local Limits

Prior to the code revisions, specific numeric discharge limits had to be applied to non-domestic users. This code revision allows the City to specify treatment techniques, disposal practices, and other non-analytical controls within a non-domestic users permit in lieu of specific parameter discharge limits. The inclusion of BMPs as local limits would be allowed by the City on a case-specific basis.

Since BMPs are not currently part of non-domestic user permits, adoption of this provision will have minimal impact on existing users. However, the ability to include BMPs in non-domestic user permits may provide alternative methods for users to meet pretreatment requirements. **Adoption of this provision is optional.** *CFR cite(s): 403.5, 403.8(f), 403.12(b), (e), (h)*

4. Rule Change: Modifications to Slug Control Plan Requirements

Previously, the rules required the City to evaluate a non-domestic user's need for a Slug Control Plan at least every two years. This code revision reduces this requirement to allow the City to evaluate the need for a Slug Control Plan at least once or when major changes occur at a facility.

This revision also requires that Slug Control Plans be made part of the non-domestic user's pretreatment permit. The City already includes the Slug Control Plan requirements, if the need exists, in non-domestic user permits. The City also continues to evaluate the need for Slug Control Plans as part of periodic facility inspections. Therefore, non-domestic users on the pretreatment program will see no change when

this revision is adopted. The City of Ames is required to adopt these rule changes.

CFR cite(s): 403.8(f)(1)(iii)(B)(6), 403.8(f)(2)(vi)

5. Rule Change: Use of Equivalent Concentration Limits

Previously, the rules did not allow the City to translate categorical mass limits to equivalent concentration limits. This code revision allows this to happen. However, categorical mass limits do not currently apply to any industry on the City of Ames Non-Domestic Waste Pretreatment Program, so no impacts to current non-domestic users will result from the adoption of this code revision. **Adoption of this provision is optional.** *CFR cite(s): 403.6(c)(6)*

6. Rule Change: Use of Grab/Composite Sampling Protocols

Previously, the rules required that samples be collected using flow-proportional methods unless using such method was not possible. This code revision allows the City to exercise greater flexibility in what type of collection methods are used for periodic compliance monitoring as long as the sample method used produces a representative sample of non-domestic user discharges.

This rule change also requires that sampling methods outlined in 40 CFR Part 403.12 be followed for all pretreatment monitoring. Previously, this requirement only applied to 90-day compliance reports and baseline monitoring reports. Analysis by the City already complies with these requirements. This provision may impact non-domestic users who currently perform self-monitoring. **The City is required to adopt these code revisions.** *CFR cite(s): 403.12(b), (d), (e), (g), (h)*

7. Rule Change: Significant Non-Compliance (SNC) Publication Requirements

The previous rule required that SNC publications be made in the largest daily newspaper published in the City. Now the requirement is for SNC publications to be made in the paper of general circulation within the jurisdiction that provides meaningful public notice. This will have no impact on pretreatment facilities. **Adoption of this provision is optional.** *CFR cite(s): 403.8(f)(2)(viii)*

8. Rule Change: Significant Non-Compliance (SNC) Application to Significant Industrial Users Only

Previously, EPA interpreted the rules regarding SNC as applying to all industrial users, both Minor and Significant, on a pretreatment program. This rule change clarifies that SNC applies only to Significant Industrial Users unless a minor industrial user causes pass-through or interference with the city's treatment plant, causes the City to exercise emergency authority to halt or prevent a discharge, endangers the health and welfare of sanitary sewer workers or the environment, or adversely affects the pretreatment program. This provision reduces the likelihood of a minor industry meeting the SNC criteria. **Adoption of this provision is optional.** *CFR cite(s): 403.8(f)(2)(viii)*

9. Rule Change: Definition of Significant Non-Compliance (SNC) Expanded

The previous rule limited the types of standards and requirements that are to be considered when determining if an industry's violations meet the SNC criteria. This revision expands the types of requirements that can cause a facility to be in SNC to include pretreatment standards or requirements, including instantaneous limits, daily averages, daily maximum, or narrative standards such as best management practices.

This rule change could increase the likelihood of an industry meeting the SNC criteria.
The City is required to adopt this code revision. *CFR cite(s): 403.8(f)(2)(viii)(A), (B), (C)*

10. Rule Change: Significant Non-Compliance (SNC) for Late Reports

Previously a facility was in SNC if a compliance report was more than 30 days late. The new rule extends that to 45 days. Adoption of this rule change allows industrial users more time to submit compliance reports. **Adoption of this provision is optional.** *CFR cite(s): 403.8(f)(2)(viii)(F)*

11. Rule Change: Removal Credits and Effects of Overflows

The Removal Credits provisions allow cities to adjust a Categorical Industrial User's (CIUs) categorical pretreatment limits based on the city's ability to remove the pollutants at its treatment plant. This allows CIUs to discharge higher concentrations of pollutants if the city is able to treat them to the appropriate limits. This rule change updates the references relating to the Removal Credits requirements to comply with combined sewer overflow rules. However, the City has not issued permits with removal credits; and, therefore, adoption of this rule change will have no impact on CIUs. **Adoption of this provision is optional.** *CFR cite(s): 403.7*

12. Rule Change: Signatory Requirements for Industrial User Reports

This rule change updates who is allowed to sign reports for industrial users. The person signing a report must have the ability to authorize funds and personnel needed to ensure compliance with pretreatment standards or to correct issues of non-compliance. This ensures that the person signing the reports is able to take action to immediately correct instances of non-compliance and prevent harm to the environment and the city's treatment plant. **The City of Ames is required to adopt this section.** This rule change is expected to have a very minimal affect to industrial users as most are already following this requirement. *CFR cite(s): 403.12(l)*

13. Rule Change: Signatory Requirements for Publicly Owned Treatment Works (POTW) Reports

Previously, only an elected official or the person in charge of the POTW was allowed to sign the annual POTW pretreatment program report. This rule change allows pretreatment coordinators, who are not necessarily the POTW managers, to sign the pretreatment reports. This rule change applies only to the City. **The City is required to adopt this provision.** *CFR cite(s): 403.12(m)*

14. Rule Change: Update of the Use of Net/Gross Calculations

This rule change updates the requirements for the use of net/gross calculations. The net/gross calculations regulations give the City the option of issuing Categorical Industrial Users a "credit" on their categorical limits for pollutants that are present in their intake waters. Currently, no industry on the Non-Domestic Waste Pretreatment Program contains net/gross calculations in their discharge limits; and, therefore, adoption of this rule change will have minimal affect on industrial users. **The City is required to adopt this code change.** *CFR cite(s): 403.15*

15. Rule Change: Requirement to Report all Monitoring Data

The previous rule only required categorical facilities to report all wastewater monitoring data. This rule change now requires that all non-domestic users subject to the

pretreatment program submit all monitoring data. All non-domestic users will now be required to submit all wastewater monitoring data to the City. **The City is required to adopt this provision.** *CFR cite(s): 403.12(g)(6)*

16. Rule Change: Notification by Industrial Users of Changed Discharge

This rule change clarifies who has to be given notification by non-domestic users of a changed discharge. Non-domestic users are now required to notify the City and the pretreatment program control authority if the control authority is not also the City. Since the City of Ames is the pretreatment control authority and owner of the city's wastewater treatment plant, adoption of the rule change has no affect on non-domestic customers. **The City is required to adopt this code revision.** *CFR cite(s): 403.12(j)*

17. Rule Change: Equivalent Mass Limits in Lieu of Concentration-based Limits

The rule change allows Categorical Industrial Uses to request, and the City the discretion to approve, the conversion of concentration-based categorical standards to equivalent mass limits. Use of equivalent mass limits will require more documentation of discharges and continuous wastewater flow monitoring to verify the mass limits are being met. However, this rule change benefits industries that have implemented water conservation measures that would have otherwise caused the facility to violate a concentration based limit. Adoption of this rule change is expected to have no negative impact on any industrial user on the pretreatment program. **Adoption of this provision is optional.** *CFR cite(s): 403.6(c)(5)*

18. Rule Change: Additional Classifications for Categorical Industrial Users

Previously, the pretreatment regulations classified industries falling under the categorical pretreatment standards as simply Categorical Industrial Users (CIU). All categorical facilities, no matter how large or small of operation they had, were required to meet the requirements outlined in the federal code. This rule revision creates two additional classifications for CIUs; namely, Non-Significant CIUs and Middle Tier CIUs.

A. Non-Significant Categorical Industrial Users (CIU)

Categorical industries which consistently comply with applicable pretreatment standards, consistently discharge less than 100 gallons per day of categorical wastewater, and never discharge any untreated concentrated wastewater may be classified as a Non-Significant CIU. Classification as a Non-Significant CIU reduces the monitoring requirements for an industry and does not require that the facility have a pretreatment program permit. However, Non-Significant CIUs must continue to comply with applicable pretreatment standards and requirements and provide annual certification that this requirement is being met.

B. Middle Tier Categorical Industrial users CIUs

Middle Tier CIUs are facilities whose discharges are:

- ◆ <0.01% of Publicly Owned Treatment Works' (POTW) design dry-weather hydraulic capacity (<860 gpd) or 5,000 gpd, whichever is smaller (measured by continuous effluent flow monitoring unless CIU is batch discharger) AND
- ◆ <0.01% of POTW's design dry-weather treatment capacity; AND

- ◆ <0.01% of Maximum Allowable Headworks Loading (MAHL) for any local limit developed by the POTW and approved by the approval authority

To be eligible for classification as a Middle Tier CIU,

- ◆ CIUs must not have been in Significant Non-Compliance (SNC) for any time in past two years, and
- ◆ CIUs daily flow rates, production levels, or pollutant levels cannot vary significantly where reduced reporting would be non-representative of operating conditions.

Adoption of these additional classifications allows for reduced monitoring requirements and, consequently, a reduced regulatory burden for CIUs with very low flows and potential to impact the POTW. Adoption of this rule change is not likely to affect any industry currently on the city's Non-Domestic Waste Pretreatment Program. However, they may be applicable to new industries or existing industries that meet these requirements in the future. **Adoption of this provision is optional.** *CFR cite(s): 403.3(v)(2); 403.8(f)(2)(v), (6); 403.12(e)(3), (i)*