

This report is made pursuant to Paragraph 36 of the EPA-Lompoc Administrative Order on Consent (AOC) dated September 2, 2020, which reads as follows:

36. **Within 90 days after the effective date of this Order**, Lompoc shall provide a description of all substantive changes it proposes to make to its Pretreatment Program, including, but not limited to, any substantive change in its Pretreatment SUO, program administration, program structure, monitoring requirements, and program funding. Lompoc shall seek and obtain written approval from EPA before making any such change(s).

With this summary description, the City seeks the review and approval of the EPA and the Central Coast Water Board for the program changes proposed herein.

Overall Pretreatment Program Update

The City is working on a complete update of the Pretreatment Program, including revision and update of the Pretreatment Program policy document, which has not been modified since the City's Pretreatment Program was first approved in approximately 1983. The policy document provides a general program description, as required by 40 CFR 403.9, and includes discussions of program administration, program structure, monitoring requirements, and program funding, as specified in AOC Paragraph 36. The revised policy document will clarify the City staff associated with the Pretreatment Program; frequency and procedures for inspection and monitoring activities; and address funding of the program.

Overall, the most substantive Pretreatment Program changes include:

- A. Revision of the City's sewer use ordinance (SUO), Chapter 13.16 of the Lompoc Municipal Code, including both substantial and non-substantial changes as defined at 40 CFR 403.18 to incorporate the 2005 Streamlining Rule changes, include new program components, address concerns the noted in EPA's AOC Paragraphs 33 and 37, and previous requirements and recommendations from pretreatment compliance inspections (PCIs) and pretreatment compliance audits (PCAs).
- B. Update of the City's Enforcement Response Plan (ERP), per the requirements at 40 CFR 403.8(f)(5), EPA's AOC Paragraphs 33 f, k and 38, and address of requirements and recommendations from previous PCIs and PCAs.
- C. Formal establishment of a Fats, Oils, and Grease (FOG) Control program, as per EPA's AOC Paragraph 39.

Each of these program areas are addressed in the updated Pretreatment Program Policy document and are further discussed below.

A. Sewer Use Ordinance

The City was in the process of revising its SUO prior to entering into the AOC with EPA, in order to address issues identified during approval authority oversight activities (i.e., PCIs and PCAs) in the past few years. Major revisions involve the incorporation of all requirement elements of the 2005 Streamlining Rule (update of the federal pretreatment regulations) and adoption of several optional program provisions, including monitoring waivers for pollutants not expected to be present, the non-significant categorical industrial user classification, general permits, and best management practices.

Specifically, the following modifications have been proposed:

- 1) Addition and update of definitions, including best management practices, domestic wastewater, infectious waste, medical waste, non-significant categorical industrial user, significant noncompliance, slug load, new source, etc.:
 - a. Note that the definition of *domestic wastewater* has been modified to include wastewater from the processing of water for dialysis, including dialysate, a liquid waste generated from dialysis operations, which constitutes a substantial program change*;
 - b. Note that the definition of *infectious waste* and *industrial waste* have been modified to exclude, and a definition of *medical waste* has been added that excludes, the liquid dialysate that is now included under the definition of domestic wastewater, which constitutes a substantial program change*; *and*
 - c. The other modified definitions proposed in the SUO reflect the same terms as defined in the federal pretreatment regulations at 40 CFR 403.3 and are therefore considered non-substantial program changes.
- 2) Clarification of authority to deny or condition new or increased contributions to Lompoc's POTW per 40 CFR 403.8(f)(1)(i);
- 3) Addition of specific prohibitions at 40 CFR 403.5(b) and clarify authority to prohibit discharges according to City-specific conditions;
- 4) Clarification of authority to include conditions in industrial user wastewater discharge permits per 40 CFR 403.8(f)(1)(iii)(B)(6);
- 5) Inclusion of authority to take enforcement actions in accordance with the City's ERP per 40 CFR 403.8(f)(5) and update enforcement action provisions;
- 6) Update of industrial user notification requirements, including for changes affecting potential for slug discharge per 40 CFR 403.8(f)(2)(vi) and notification and resampling requirements for effluent violations per 40 CFR 403.12(g)(2);
- 7) Addition of industrial user reporting requirements as per 40 CFR 403.12(c), (e), and (h);

- 8) Clarification of monitoring (sampling and analysis) requirements as per 40 CFR 403.12(g)(2) and (3);
- 9) Update of authorized signatory requirements as per 40 CFR 403.12(l)(1);
- 10) Formal establishment of a high-strength wastewater surcharge program;
- 11) Update of conditions controlling discharge of water softening waste and revision to criteria for allowable water softeners, including, if used for non-residential use, a softener or demineralizer shall be allowed if the use generates less than 5% of the total volume treated by the City's wastewater treatment plant and the apparatus has an efficiency rating of no less than 4,000 grains of hardness removed per pound of salt used in regeneration.* This constitutes a substantial program change;
- 12) Addition of authority for administrative fines;
- 13) Addition of authority to issue general permits;
- 14) Limitation of the Director's discretion to require a permit for use of the City's sewerage system to industrial users, pursuant to 40 CFR 403.8(f)(1), which constitutes a substantial program change*;
- 15) Addition of authority to implement monitoring waivers for pollutants not expected to be present;
- 16) Clarification of authority to require users to implement best management practices;
- 17) Increase the time to appeal a decision, action, or determination made by the Director from 15 business days to 20 business days;
- 18) Addition of Article 8 addressing regulation of waste received from other jurisdictions; *and*
- 19) Addition of Article 9 addressing control of FOG-discharging facilities, including a revision to require restaurants and other food service establishments that discharge more than a de minimis amount of FOG to install grease removal devices (i.e., traps or interceptors).

Most of the SUO changes directly reflect the federal pretreatment regulations at 40 CFR 403 or are added program provisions/areas and therefore constitute non-substantial program changes. In addition, Table 1 presents the City's proposed and active activities taken in response to EPA's AOC Paragraph 33 describing various alleged Pretreatment Program violations, which primarily involved deficiencies in the SUO and insufficiently implementing the provisions of the SUO.

The City has extra-jurisdictional agreements with the Vandenberg Air Force Base (VAFB) and the Vandenberg Village Community Services District (VVSCD) that describe each entity's responsibilities with regards to sewerage concerns and pretreatment program implementation. In general, each outlying jurisdiction is intended to be responsible for implementing a pretreatment program that is as stringent as the City's within its service area, and both are required to regularly report on their pretreatment program activities to the City. City staff will work with VAFB and VVCSD to ensure that both entities are aware of the updates to the City's Pretreatment Program, most particularly with regards to the SUO revisions, and modify their pretreatment programs accordingly as needed.

* The City of Lompoc is aware that EPA has presented a proposed AOC to a dialysis center within the city limits of Lompoc, related to discharges from that dialysis center and its compliance with its City of Lompoc wastewater discharge permit. The City does not wish its SUO to be in conflict with any AOC agreed upon and executed by EPA and that dialysis center. Nor does the City wish its SUO to be in conflict with the outcome of any dispute between EPA and that dialysis center with respect to whether that dialysis center must be permitted or whether it is in violation of any permit. Therefore, should EPA and the dialysis center agree upon and execute an AOC, the City is willing to change its proposed dialysis/softener-related SUO provisions to be consistent with that executed AOC. Or, should EPA and the dialysis center not reach an agreement on an AOC or otherwise on the disputed issues between them, the City is willing to change its proposed dialysis/softener-related SUO provisions to be consistent with the ultimate resolution of the disputed issues between EPA and the dialysis center.

Table 1: Responses to AOC Paragraph 33 titled Pretreatment Violations

No.	Finding	Response	Citation/Location
33.a	40 C.F.R. § 403.5(c) because Lompoc has never enforced its local limits other than a telephone call or letter to the violating IU despite repeated violations by IUs, as noted in Pretreatment Program Quarterly and Annual Reports.	City staff have followed the actions outlined in its ERP to address user noncompliance. Enforcement has escalated accordingly, including public notice of users in significant noncompliance (most recent publication in 2018). In 2019 and 2020, several Wastewater Division enforcement actions including compliance schedules (e.g., requirements to install grease control devices at the Director’s discretion) have been challenged by users and successfully appealed to the City Council, as permitted by the SUO. Further, the City has updated its ERP to incorporate all elements required by federal regulations, simplify protocols for full implementation of enforcement activities, and clarify actions taken in response to SUO and wastewater discharge permit violations.	Updated ERP; sample enforcement action
33.b	40 C.F.R. § 403.8(f)(1)(i) because Lompoc’s SUO does not provide the authority to deny or condition new or increased contributions to Lompoc’s POTW.	The SUO has been revised to incorporate these authorities.	SUO 13.16.160
33.c	40 C.F.R. § 403.8(f)(1)(ii) because Lompoc’s SUO does not include all specific prohibitions in 40 C.F.R. § 403.5(b).	The SUO has been revised to incorporate all specific prohibitions at 40 CFR 403.5(b).	SUO 13.16.250
33.d	40 C.F.R. § 403.8(f)(1)(iii)(B)(6) because Lompoc’s SUO does not provide legal authority to include Slug Discharge control plan requirements in Significant IU permits.	The SUO has been revised to authorize the inclusion of any applicable condition to user permits, including Slug Discharge control plan requirements.	SUO 13.16.180.G
33.e	40 C.F.R. § 403.8(f)(1)(vi)(A) because Lompoc has not been enforcing its SUO regarding the installation of grease traps/interceptors. As of June 1, 2020, 9 out of 106 food service establishments are out of compliance with FOG requirements while 6	Article 9 – Fats, Oils, and Grease Control Program has been added to the SUO, to address all deficiencies noted in the AOC. In addition, an accompanying FOG Control Policy has been drafted to outline implementation of the new FOG control provisions, which will begin upon adoption of the updated SUO.	SUO 13.16 Article 9; FOG Control Policy

	are in the process of installing FOG control devices.		
33.f	40 C.F.R. § 403.8(f)(1)(vi)(A) because Lompoc's SUO and Enforcement Response Plan ("ERP") contain conflicting penalty amounts.	The SUO and ERP have both been significantly revised and the conflicting penalty amounts have been resolved.	SUO 13.16.470; ERP Section 4.4
33.g	40 C.F.R. § 403.8(f)(2)(vi) because IU permits do not include a requirement for notification of changes affecting potential for Slug Discharge, as noted in the PCA report dated May 25, 2018.	The SUO and the City's SIU wastewater permit template have been revised to incorporate this notification requirement.	SUO 13.16.380.E; SIU permit template
33.h	40 C.F.R. § 403.8(f)(2)(vi) because Lompoc's SUO definition of "slug load" does not meet the minimum federal requirements.	The SUO's definition of "slug load" has been updated to reflect the federal requirements.	SUO 13.16.030
33.i	40 C.F.R. § 403.8(f)(2)(viii) because Lompoc's SUO definition of "significant noncompliance" does not meet the minimum federal requirements.	The SUO's definition of "significant noncompliance" has been updated to reflect the federal requirements.	SUO 13.16.030
33.j	40 C.F.R. § 403.8(f)(3) because Lompoc has deficient POTW resources (supplies, equipment, personnel) which seriously hinder its ability to implement an effective pretreatment program pursuant to 40 C.F.R. § 403.8(f)(1) and (2), as noted in the PCA report dated May 25, 2018.	At the time of the PCA, the City was in the process of hiring a Water Resources Protection Technician (WRPT) to serve as full-time Pretreatment Coordinator of the City's pretreatment program. Until the WRPT was hired and began work in 2018, the City's program has been implemented on a part-time basis by the POTW's Chemist. Further, the City has been dedicating other staff resources from time to time to assist the Pretreatment Coordinator with inspection and other compliance duties as needed.	--
33.k	40 C.F.R. § 403.8(f)(5) because Lompoc's SUO does not provide the legal authority to enforce its ERP, its ERP does not contain all of the minimum elements, and Lompoc has not implemented its ERP.	The SUO has been revised to authorize implementation of the City's ERP. The ERP has been revised to include all required elements at 40 CFR 403.8(f)(5) and the City will begin implementing its revised upon its approval by EPA, the Water Board, and the City Council. The revised ERP	SUO 13.16.480; updated ERP

		was submitted to EPA and the Water Board for review on October 27, 2020.	
33.l	40 C.F.R. § 403.12(c)(3) because Lompoc's SUO does not require IUs to submit compliance schedule progress reports.	The SUO has been revised to require submission of compliance schedule progress reports, as necessary.	SUO 13.16.170.A.f
33.m	40 C.F.R. § 403.12(e) because Lompoc's SUO does not require categorical IUs to submit periodic reports.	The SUO has been revised to require all SIUs, including CIUs, to submit periodic reports, as necessary.	SUO 13.16.170.C
33.n	40 C.F.R. § 403.12(g)(2) because Lompoc's SUO does not require IUs to notify Lompoc of a violation nor does it require resampling.	The SUO has been revised to require users to notify the City within 24 hours of becoming aware of a sampling violation and conduct resampling within 30 days of becoming aware of the violation.	SUO 13.16.380.G
33.o	40 C.F.R. § 403.12(g)(3) because Lompoc's SUO does not require sample to be representative of the discharge.	The SUO has been revised to require that wastewater samples must be representative of the user's discharge.	SUO 13.16.100.G
33.p	40 C.F.R. § 403.12(h) because Lompoc's SUO does not require non-categorical SIUs to submit periodic reports.	The SUO has been revised to require all SIUs, including both non-categorical SIUs and categorical industrial users (CIUs), to submit periodic reports, as necessary.	SUO 13.16.170.C
33.q	40 C.F.R. § 403.12(l)(1) because Lompoc's SUO does not require IUs to certify that the data submitted is accurate with a signature from an authorized representative.	The SUO has been revised to require that all wastewater discharge permit applications, user reports, and certifications must be signed by an authorized representative of the user and contain the applicable certification statement.	SUO 13.16.170.E

B. Enforcement Response Plan

Similar to the SUO update effort, the City revised its ERP to address issues identified during previous PCIs and PCAs. Major revisions involve the incorporation of federal requirement elements as specified at 40 CFR 403.8(f)(5) and a general document update to reflect applicable provisions of the revised SUO. The following modifications have been incorporated into the ERP:

- 1) Establishment of legal authority to control the discharge of industrial wastewater into the collection system, including the ability to implement a permit and enforcement program for commercial and industrial sources;
- 2) Description of staffing, their responsibilities, procedures, and equipment to ensure effective implementation of the ERP;
- 3) Procedures for identifying and investigating instances of noncompliance;
- 4) Inclusion of an Enforcement Response Guide describing a range of escalating enforcement responses corresponding to violation or varying magnitude/effect and specification of the officials responsible for each type of response;
- 5) Specification of time frames for enforcement actions and follow-up, including initial City response within 30 days of identifying the violation;
- 6) Addition of example standard forms/enforcement notices and guidelines for proper documentation of compliance data; *and*
- 7) Addition of a procedure for evaluation and review the effectiveness of the ERP.

Taken together, the modifications to the ERP address the issues identified in AOC Paragraphs 33 and 38. On October 27, 2020, the amended ERP was submitted to the EPA and the Regional Water Quality Control Board for review.

C. Fats, Oils, and Grease Control Program

While the City has long implemented an informal FOG program to regulate food service establishments (FSEs), the revisions to the SUO and the City's pretreatment program policy document establish a formal FOG Control Program, as required by EPA's AOC Paragraph 39. The revised SUO incorporates a section specific to FOG control – Fats, Oils, and Grease Control Program, referenced as the "FOG Ordinance." Article 1 of the revised SUO includes definition of FOG-specific terms. As required by the AOC Paragraph 39.a, Article 9 specifies the legal authority to control the discharge of FOG into the wastewater collection system, including the ability to implement a permit and enforcement program for defined commercial and industrial sources, including food service establishments. All restaurants and other food service establishments that discharge more than a de minimis amount of FOG will be required to install grease removal devices

(i.e., traps or interceptors). Restaurants and other food service establishments that discharge a de minimis amount of FOG are those engaged only in reheating, hot holding, assembly, or mixing of ready-to-eat food products.

The updated Pretreatment Program policy document contains a specific FOG control component. The proposed document addresses the following issues of concern required in EPA's AOC Paragraph 39 b through f:

1. Provision of guidelines for appropriate devices to control the discharge of FOG into the wastewater collection systems;
2. Description of acceptable FOG control device management, operations and maintenance standards, and best management practices;
3. Description of compliance inspection protocols;
4. Addition of FOG compliance assistance measures and applicable enforcement procedures; and
5. Outline of the public education program directed at reducing the amount of FOG entering the collection system from residences.


As required in EPA's AOC Paragraph 39 g, the updated Pretreatment Program policy document addresses in its staffing and budgeting section the resources planned to be allocated to implementing the formal FOG control program.

Further, as required in EPA's Paragraph 39 h, the City is in the process of updating its list of currently operating FSEs. Other commercial FOG generators, such as auto-care facilities, are being considered for inclusion of the FOG Control Program in the future.

In parallel with the development of the formal FOG Control Program, the City is updating its System Management Plan (SSMP) Element 7: Fats, Oils, and Grease (FOG) Control Program. The revisions to the SSMP will reflect the proposed FOG ordinance and FOG control policy provisions.

Certification

I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



James Throop
Acting Utility Director
City Manager
City of Lompoc

11/24/2020
Date
