

REQUEST FOR COUNCIL ACTION



Date Action Requested: (December 4, 2023)

Order ☐ Ordinance ☒ Resolution ☐ Motion ☐ Information ☐

No. 2023-2920

Subject: An ordinance amending and adding pretreatment definitions to NMC 13.10.040 and adding continuous pH monitoring to NMC 13.10.090.

Staff: April Catan, Regulatory Compliance
Department: Public Works
File No.

Business Session

Order On Agenda:

Hearing Type: Legislative ☒ Quasi-Judicial ☐ Administrative ☐ Not Applicable ☐

Is this item state mandated? Yes ☒ No ☐

If yes, please cite the state house bill or order that necessitated this action:

DEQ Industrial Pretreatment Compliance Audit Final Report: DEQ reviewed the City of Newberg's Municipal Code Title 13.10; the code establishes legal authority for the administration of the pretreatment program. DEQ requires the City to revise its legal authority for definition of Pretreatment Requirement as provided in 40 CFR Part 403.3, establish legal authority provisions on the use of continuous monitoring for pH and specify any exceedance of federal pH limits constitutes a violation (40 CFR 401.17, 403.5, & 261.22); and SNC evaluation in instances where violations occur (40 CFR 403.8 (f)(2)(viii)).

Recommendation:

Staff recommend adoption of ordinance 2023-2920

Executive Summary:

The granting of the ordinance provisions will better align the City's code and practice with federal and state code.

Fiscal Impact:

No fiscal impact.

Council Goals:

Create and maintain a high level of customer service: Continue to work with our industrial users.

Ensure Newberg infrastructure (roads, water, city employees) is in good repair and supply:

Ordinance would help protect city sewer pipes.

Enhance community safety: Potentially help protect the community by keeping corrosive or hazardous waste out of neighborhood pipes.

ORDINANCE No. 2023-2920



An Ordinance

Recitals:

1. WHEREAS, pursuant to 40 CFR 403.3 (t), the term Pretreatment requirements means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.
2. WHEREAS, pursuant to 40 CFR 401.17, requires pH effluent limitations under continuous monitoring.
3. WHEREAS, pursuant to 40 CFR 403.5 (b)(2), prohibits pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.
4. WHEREAS, pursuant to 40 CFR 261.22, an aqueous waste with a pH greater than or equal to 12.5 is a solid waste (hazardous waste).
5. WHEREAS, pursuant to 40 CFR 403.8 (f)(2)(viii), requires a provision to evaluate instances where Significant Non-Compliance violations occur.

The City of Newberg Ordains as Follows:

1. To revise a section and add a new section of municipal code in Chapter 13, Title 10, as set forth in Exhibit A, attached and hereby made part of this Ordinance.
2. The new code section shall be added to 13.10.090 Specific Prohibitions
3. The new and revised code section shall be added to 13.10.040 Definitions.

Effective Date of this ordinance is the day after the adoption date, which is: _____, 2023.

Adopted by the City Council of Newberg, Oregon, this _____ day of _____, 2023, by the following votes: **AYE:** **NAY:** **ABSTAIN:**

Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2023.

Bill Rosacker, Mayor

EXHIBIT A

Newberg Municipal Code 13.10.040 Definitions.

Revise:

“Pretreatment requirement” means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard ~~applicable to~~ imposed on an industrial users.

Add:

“Significant Noncompliance (SNC)” means:

1. A Significant Industrial User, (or any Industrial User which violates paragraphs (c), (d), or (h) of this section), is in significant noncompliance if its violation meets one or more of the following criteria:
 - a. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6 month period exceed (by any magnitude) numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
 - b. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
 - c. Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the manager determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of sanitary sewerage system personnel or the general public);
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the manager’s exercise of their emergency authority to halt or prevent such a discharge;
 - e. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - f. Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - g. Failure to accurately report noncompliance; or
 - h. Any other violation or group of violations, including a violation of Best Management Practices, that the manager determines will adversely affect the operation of implementation of its pretreatment program.

13.10.090 Specific Discharge Limitations

Add

I. pH Limitations Under Continuous Monitoring

a. Where an Industrial User continuously measures the pH of wastewater pursuant to a requirement or permit issued, the permittee shall maintain the pH of such wastewater within the range set forth in the applicable effluent limitation guidelines, except excursions from the range are permitted subject to the following limitations:

1. The total time during which the pH values are outside the required range of pH values shall not exceed 7 hours and 26 minutes in any calendar month; and
2. No individual excursion from the range of pH values shall exceed 60 minutes.
3. Discharge with pH <5.0 is prohibited and not subject to excursion allowances.
4. Discharge with pH \geq 12.5 is prohibited and not subject to excursion allowances.

b. For purposes of this section, an excursion is an unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth in the applicable effluent limitation guidelines.