

Policy Statement
Administrative Civil Liability Complaint R5-2016-0512
Malaga County Water District

Industries and businesses produce wastewater that differs significantly in composition from the domestic wastewater that municipal treatment works are typically designed to treat. Non-domestic wastewater can contain metals, salts, or other pollutants, which are produced or used during industrial processes and are either not found in domestic wastewater or are not found in domestic wastewater at the levels present in industrial waste streams. Pretreatment refers to the treatment of non-domestic wastewater, which occurs prior to its discharge to a sanitary sewer system. The United States Environmental Protection Agency's (U.S. EPA) National Pretreatment Program, which is implemented through federal, state, and local entities, is a core part of the Clean Water Act's National Pollutant Discharge Elimination System (NPDES).

The purpose of pretreatment is to reduce and eliminate discharges of non-domestic pollutants to treatment works and, thereafter, to federal and state waters. Pretreatment protects drinking water supplies by reducing contaminants released to source waters, and it protects workers from exposure to fumes by preventing the build-up of gas-forming substances. Pretreatment plays a key role in reducing pollutants in municipal sludge so that it may be productively used as a soil amendment. It also prevents sewer system overflows by controlling discharges of oils and grease. To sum, in addition to minimizing the level of harmful pollutants which may be discharged from a treatment works to the environment, pretreatment serves to reduce the risks of interference and damage to treatment works themselves.

U.S. EPA's final rule promulgating general pretreatment regulations noted that the intent of the pretreatment regulations and the national pretreatment policy is to:

“(i) Prevent the introduction of pollutants into POTW’s which will interfere with the operation of the POTW or contaminate the sewage sludge;

(ii) Prevent the introduction of pollutants into POTW’s which will pass through the treatment works into receiving waters or the atmosphere or otherwise be incompatible with the work; and

(iii) Improve opportunities to recycle and reclaim wastewaters and the sludges resulting from wastewater treatment.”

U.S. EPA's statement of intent is codified in the Code of Federal Regulations. (40 CFR § 403.2.) U.S. EPA has stated “[e]ffective implementation of approved pretreatment programs by municipalities is critical to controlling the discharge of toxic pollutants to surface waters; protecting the substantial financial investment in POTWs; protecting POTW worker health and safety; and preventing the contamination of sludge.” (1989 U.S. EPA Enforcement Initiative for Failure to Adequately Implement Approved Local Pretreatment Programs.)

Local pretreatment programs must be fully implemented in order to effectively control industrial discharges of toxic, hazardous, and concentrated conventional wastes into public sewers and, ultimately, our rivers and lakes. Congress assigned the primary responsibility for adopting and enforcing national pretreatment standards to publicly-owned treatment works (POTWs), while assigning the responsibility to assure that POTWs fulfill this obligation to U.S. EPA and delegated States.

Cooperation between federal, state, and local entities is integral to the successful implementation of the pretreatment program.

In preparing Administrative Civil Liability Complaint R5-2016-0512, the Prosecution Team considered the intent and goals of the National Pretreatment Program. The Prosecution Team also considered the Central Valley Water Board's many outreach efforts to the Discharger, which are detailed in the Complaint. The Prosecution Team believes the proposed administrative civil liability is fair, proportional to the number, type, and seriousness of the violations, and consistent with the Enforcement Policy.