



February 28, 2025

Via E-Mail

Jeff Marrs
Operations Superintendent/Assistant Director
Public Works
City of Everett
3200 Cedar Street
Everett, WA 98201
JMarrs@everettwa.gov

Dear Mr. Marrs:

Please accept this letter as a signed letter of counsel assessing whether existing authorities of the City of Everett are sufficient to carry out the requirements of Special Condition S6.F – PBDE Reduction Program – as required under Special Condition S6.F.1 in the City of Everett Water Pollution Control Facility NPDES Permit No. WA0024490 effective on January 1, 2025.

We have reviewed the relevant provisions in the City Industrial Pretreatment Program and Everett Municipal Code (EMC) and conclude the City does have authority to implement Special Condition S6.F.

The 2024 STP Permit requires the City to “evaluate its existing legal authority to implement and enforce a PBDE Reduction Program aimed at reducing PBDE discharges in wastewater from industrial users.” This evaluation, which the City must submit by July 1, needs to assess, “whether existing legal authorities are sufficient to carry out the requirements of S6.F.” Special Condition S6.F requires the City to: notify industrial users of upcoming expectations for BMP evaluation and implementation (also by July 1, 2025), submit to Ecology an updated PBDE Quality Assurance Project Plan for monitoring PBDEs at industrial sources and in facility influent (by March 3, 2025), sample discharges from industrial users for a PBDE Characterization Study, require industrial users identified in the Characterization Study to evaluate and determine sources of PBDEs in their discharge and require these users to identify opportunities for PBDE source reduction, conduct effectiveness monitoring at all PBDE Reduction Program participant facilities, and evaluate flow management adaptations. The City’s pretreatment program and related provisions in the City Code provide authority covering each of these requirements.

The existing Industrial Pretreatment Program and associated EMC provisions authorize the issuance of wastewater discharge permits, monitoring, compliance, and enforcement activities.

Under the program, the City may establish and enforce local limits and regulations, including those required by permits such as the 2024 STP Permit.

Several provisions in Chapter 14.40 EMC establish broad authority to regulate discharges to its facility. Those relevant provisions are as follows:

- EMC 14.40.050(A) General Prohibitions: No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- EMC 14.40.050(B) Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - 19. Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.
 - 20. Any wastewater, which in the opinion of the director can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the director (except that no special waiver shall be given from categorical pretreatment standards).
 - 25. Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process.

Further, the additional provisions listed below provide the City with authority to implement other certain parts of the PDBE Reduction Program. Specifically, EMC 14.40.310 ("Wastewater discharge permit modification") grants authority to modify wastewater discharge permits to incorporate new or revised pretreatment standards or requirements. This would cover elements of the PBDE Reduction Program such as requiring IUs conduct their own evaluations and assessments, and requirements for the City to conduct additional sampling and "effectiveness monitoring".

- EMC 14.40.080 Local limits
 - E. Best Management Practices: The director may develop best management practices (BMPs), for inclusion in an ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of EMC 14.40.050. These BMPs may include but are not limited to types or methods of pretreatment technology to be used, methods of source control, minimum maintenance requirements, dragout, spill, and pollution prevention practices, or other requirements as deemed necessary. The director may establish BMPs in lieu of numerical limits for noncategorical users.

- EMC 14.40.100 City's right of revision: The city reserves the right to establish, by ordinance or in wastewater discharge permits, differing standards or requirements on discharges to the POTW.
- EMC 14.40.130 Pretreatment facilities: The director may establish best management practices (BMPs) for particular groups of users.
- EMC 14.40.310 Wastewater discharge permit modification: The director may modify the wastewater discharge permit for good cause including, but not limited to, the following:
 - A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements

Please let us know if you have any questions or if you need any additional assessment of the authority to implement the PBDE pretreatment program in the future.

Sincerely,

MARTEN LAW LLP

A handwritten signature in black ink, appearing to read "Emma Lautanen", with a long horizontal flourish extending to the right.

Emma L. Lautanen

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Cc: Tim Benedict
Shane Sinclair
James Tupper