



City of Prescott  
Pretreatment Program

# Chapter 9: Public Participation and Confidentiality

July 2013



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## Acronyms

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ADEQ	Arizona Department of Environmental Quality
A.R.S.	Arizona Revised Statutes
BMP	Best Management Practices
CFR	Code of Federal Regulations
City	City of Prescott
CWA	Clean Water Act
IWDP	Industrial Wastewater Discharge Permit
IWS	Industrial Waste Survey
POTW	Publicly Owned Treatment Works
SNC	Significant Noncompliance



## 9. Public Participation and Confidentiality

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This chapter of the City of Prescott (City) Pretreatment Program describes the requirements for public participation and confidentiality described in the Clean Water Act (CWA), General Pretreatment Regulations, Title 40 Code of Federal Regulations (CFR) Part 403, and the City Code, Title II, Chapter 2-1. Public participation is a necessary component of implementing an effective pretreatment program. The City is responsible for communicating a variety of information to the public and Industrial Users, from suggested Best Management Practices (BMPs) to notifications of Significant Noncompliance (SNC).

### 9.1. Public Participation

The CWA requires public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established under CWA. The General Pretreatment Regulations encourage public participation by requiring public notices or hearings for program approval, removal credits, program modifications, local limits development and modifications, and Industrial Users in SNC. For the City's Pretreatment Program, public participation will occur during program approval, whenever significant modifications are made, and notification of issuance of Industrial Wastewater Discharge Permits (IWDP) or significant violations of IWDP.

In the process of updating the Sewer Use Ordinance (City Code, Title II, Chapter 2-1), the City has conducted several stakeholder meetings with Industrial Users, Commercial Dischargers, and the Public, as well as presenting to City Council. Prior to City Council adoption of the Ordinance, a 30-day public comment period was a forum for additional questions and comments to be addressed by the City. Comments and responses were published on the City's Water Protection web site (<http://www.cityofprescott.net/services/water/protection.php>) and were updated weekly throughout the 30-day period. A second 30-day public comment period will be conducted as part of the Arizona Department of Environmental Quality (ADEQ) approval of the City's Pretreatment Program.

In accordance with the City Code, Title II, Chapter 2-1-66-3, the Public Works Director will provide public notice of the issuance of an IWDP by publishing in a newspaper or on the City's website. Anyone, including the IWDP applicant, may petition the Public Works Director to reconsider the terms and conditions of the IWDP within 20 calendar days after the publication of the notice of issuance.

The Public Works Director will also annually publish a public notice of Industrial Users that were in SNC during the previous 12 months (City Code, Title II, Chapter 2-1-70). The public notices will be placed in a newspaper of general circulation within the City's jurisdiction.

The City requests the public to participate in the Pretreatment Program by completing periodic Industrial Waste Surveys (IWS) to generate a master list of industrial wastewater dischargers to the Publicly Owned Treatment Works (POTW). To identify Industrial Users, the City requests dischargers to complete an on-line IWS. If a discharger is identified as a potential Industrial User or User of Concern during the survey, the user is directed to answer specific questions regarding their wastewater discharges. Industrial Users are also responsible for contacting the Public Works Director in the case of an accidental discharge, non-routine batch discharge, or a slug load discharge (City Code, Title II, Chapter 2-1-67-6).

During significant modifications of local limits or the City Code, Title II, Chapter 2-1, the City will elicit public participation by publishing notification in a newspaper or on the City's website and conducting stakeholder meetings with the Industrial Users potentially impacted. For example, if the City chooses to issue general permits to a category of commercial dischargers (e.g., food service establishments), the City Code, Title II, Chapter 2-1-65-6 would have to be developed, be presented at stakeholder meetings and to City Council. A 30-day public comment period would take place prior to City Council adoption. A second 30-day public comment period would take place as part of ADEQ's approval of the updated Ordinance.

## **9.2. Confidentiality**

Part of the City's responsibility in establishing good rapport and open communication with Industrial Users requires an assurance to maintain confidentiality on data, procedures, and/or methods of production that would be considered trade secrets. While information relating to IWDP are available to the public for review without restrictions, pursuant to 40 CFR 403.14(b), trade secrets may be held confidential as described in 403.8(f)(1)(vii). City Code, Title II, Chapter 2-1-69 allows an Industrial User to request that the Public Works Director withhold information from the public that might disclose trade secrets or secret processes that are considered confidential. Discharge data, as defined by 40 CFR 2.302, are not recognized as confidential information and will be available to the public without restriction. The City Attorney has the sole discretion to determine if information or data may be considered trade secrets or secret processes. Information or data related to trade secrets or secret processes, as well as any other

information or data related to Industrial Users, are subject to retention and disclosure under the Arizona Revised Statutes (A.R.S.) 39-121 et seq., or may be required to be produced under order of a court of competent jurisdiction.