

Henderson, Katie

From: Torrence, Rufus
Sent: Tuesday, May 15, 2012 2:50 PM
To: Justin Bland
Cc: Nancy Clark; Randy Atkinson; Tom Myers; Fuller, Kim; Henderson, Katie
Subject: AR0020273 AFIN 04-00106 Legal Authority Update: Proposed Pretreatment Ordinance for Adoption by Board
Attachments: City of Siloam Springs Proposed Ordinance for Adoption.DOC; Model Pretreatment Ordinance.doc

Attn: Justin Bland

I appreciate your calling my office (9:00 am Monday; May 14, 2012). I have attached the Proposed Adoptable Ordinance (in section 3.2 I removed the 2 year requirement for slug evaluation). The City may present this Ordinance to the board for adoption. I have also attached the EPA Model Pretreatment Ordinance (MPO). The City is urged to compare the draft version with the EPA MPO. If the City wishes to make some changes before adoption, please contact my office.

We agreed that the draft ordinance will be adopted by July 1, 2012 and the adopted ordinance (with the date of adoption and Mayor's signature) will be submitted to the Department by July 30, 2012.

Thanks for your cooperation and understanding,

Rufus, ADEQ

ORDINANCE NO. 1084
City of Siloam Springs, Arkansas

Revised _____, 2009

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ORDINANCE NO. 1084. AN ORDINANCE TO REGULATE DISCHARGES INTO THE SILOAM SPRINGS SEWER SYSTEM, ESTABLISH A PERMIT SYSTEM, AND ESTABLISH AUTHORITY AND PROCEDURES FOR ENFORCEMENT OF THE SAME, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Board of Directors of the City of Siloam Springs, Benton County, Arkansas, that:

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Siloam Springs and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. This ordinance authorizes the City to operate an Industrial Pretreatment Program, to issue wastewater discharge permits and to issue hauled wastewater discharge authorizations; provides for

monitoring, compliance, and enforcement activities; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the City Administrator shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the City Administrator may be delegated by the City Administrator to other personnel.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

- ADEQ - Arkansas Department of Environmental Quality
- BOD - Biochemical Oxygen Demand
- BMR - Baseline Monitoring Report
- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SDWA - Safe Drinking Water Act
- SNC - Significant Noncompliance
- SWDA - Solid Waste Disposal Act

- SIC - Standard Industrial Classification
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- U.S.C. - United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*
- B. Approval Authority. Arkansas Department of Environmental Quality (ADEQ).
- C. Authorized Representative of the User.
 - (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

- (4) The individuals described in subsections (1) – (3), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- D. Best Management Practices or BMPs. Schedules of activities, prohibitions or practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 98-503. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- E. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).
- F. Categorical Industrial User or CIU. An Industrial User subject to a categorical Pretreatment Standard or Categorical Standard.
- G. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- H. City. The City of Siloam Springs or the Board of Directors for the City of Siloam Springs or its authorized representatives.
- I. City Administrator. The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- J. Composite Sample. A sample which is taken proportional to flow in accordance with procedures set forth at 40 CFR part 403, Appendix E, and by the City.
- K. Control Authority. The City.
- L. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- M. Existing Source. Any source of discharge that is not a new source.
- N. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

- O. Hauled Wastewater. Wastewater that is contributed to the POTW after being transported from its source to the point where it is discharged to the City sewer or POTW.
- P. Hauled Wastewater Discharge Authorization. A written authorization that the City may issue to authorize a person to discharge Hauled Wastewater. Such authorization shall not alleviate the obligation to meet all applicable federal, state and local standards.
- Q. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- R. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- S. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- T. Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- U. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- V. New Source.
 - (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

W. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

- X. Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.
- Y. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- Z. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- AA. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- BB. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- CC. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- DD. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- EE. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 98-503 of this ordinance.
- FF. Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- GG. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

- HH. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- II. Significant Industrial User.
- (1) A user subject to Categorical Pretreatment Standards; or
 - (2) A user that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
 - (3) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a Significant Industrial User.
- JJ. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.3 of this ordinance.
- KK. Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.
- LL. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- MM. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- NN. User or Industrial User. A source of indirect discharge.

- OO. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- PP. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
- QQ. Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Arkansas or any portion thereof.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Identification of Industrial Users

The City may use appropriate mechanisms and procedures to identify and locate all Industrial Users that may be subject to the requirements of this ordinance, and to maintain an accurate inventory of Significant Industrial Users, and to notify Significant Industrial Users of their status as such and notify users subject to this ordinance of Categorical Pretreatment Standards, Pretreatment Standards, and Pretreatment Requirements.

2.2 Denial of Contributions or Conditions on Contributions

The City may deny or condition all contributions of pollutants to the POTW in order that all contributions meet applicable Categorical Pretreatment Standards, Pretreatment Standards, Pretreatment Requirements, local limits, and prohibitions in this ordinance.

2.3 Prohibited Discharge Standards

- 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 Pretreatment Requirements.
- B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH less than 5.0 or more than 10, or otherwise causing corrosive structural damage to the POTW or equipment except that the City may authorize the discharge of wastewater having a pH that is greater than 10 but lower than 12.5 if such discharge will not damage the POTW or equipment and will not cause pass through or interference;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2");
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled wastewater, except as authorized pursuant to Section 10 of this ordinance;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the POTW's effluent;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- (12) Sludges, screenings, or other residues from the pretreatment of wastewater;
- (13) Medical wastes, except as specifically authorized by the City in a wastewater discharge permit;
- (14) Wastewater causing, alone or in conjunction with other sources, the POTW effluent to fail a toxicity test;
- (15) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (16) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l; or
- (17) Any pollutant which may cause the POTW to be in noncompliance with any sludge use or disposal criteria or standards.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

2.4 National Categorical Pretreatment Standards

The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference into this ordinance as if written word for word herein.

- A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the City shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

- C. A User may obtain a variance from a Categorical Pretreatment Standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.
- D. A User may obtain a net/gross adjustment to a Categorical Standard in accordance with 40 CFR 403.15.

2.5 State Pretreatment Standards

[Reserved]

2.6 Local Limits

To protect against pass through and interference, no Industrial User may discharge or cause to be discharged into the POTW any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLS) developed from time to time by the City Administrator as required by the POTW NPDES permit, as authorized by 40 CFR 403.5(c), and approved by the Approval Authority. Technically Based Local Limits (TBLLs) based on calculated Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Section _____. At the discretion of the City Administrator, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the Administrator, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The City Administrator may also develop BMPs in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented or revised, the City Administrator will provide individual notice to parties who have requested

such notice and an opportunity to respond, as set forth by 40 CFR 403.5(c)(3). This requirement of notice also applies when Local Limits are set on a case-by-case basis..

2.7 Monitoring Facilities

The City shall require to be provided and operated at a Significant Industrial User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the Significant Industrial User's premises, but the City may, when such a location would be impractical or cause undue hardship on the Significant Industrial User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

The monitoring facility shall be a separate, secured, building built for this purpose. It shall house the required equipment, and be properly powered, ventilated and heated to prevent freezing of samples during cold weather conditions. The facility shall be located such that City representatives will have free access at any time without notifying the industry. In addition to a secured locking device, the door shall be equipped with a hasp to allow placement of a City seal to verify that no entry has occurred during the sampling period.

There shall be ample room in or near such facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User. The flow measuring device shall be capable of pacing a 24 hour flow proportioned composite sampler of the type used by the sampling personnel.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

2.8 The City's Right of Revision

[Reserved]

2.9 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The City may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Pretreatment Standards and Requirements, local limits, and the prohibitions set out in Section 2.3 of this ordinance within the time limitations specified by EPA, the state, or the City whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's

expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City Administrator for review, and shall be acceptable to the City before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the City prior to the User's initiation of the changes.

3.2 Accidental Discharge/Slug Control Plans

Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance as generally described in Section 2.3. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's cost. Detailed plans showing such facilities and operating procedures to prevent accidental discharge shall be maintained on the premises of the User and produced to the City upon request. Users shall report all accidental discharges as required by Section 6.6 of this ordinance.

The City shall evaluate whether each Significant Industrial User needs a slug control plan. The City may require any User to develop, submit for approval, and implement such a plan. Alternatively, the City may develop such a plan for any User. A slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;

- C. Procedures for immediately notifying the City Administrator of any accidental or slug discharge, as required by Section 6.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Wastewater Analysis

When requested by the City Administrator, a User must submit information on the nature and characteristics of its wastewater within the number of days specified in the request. The City Administrator is authorized to prepare a form for this purpose and may periodically require Users to update this information.

4.2 Wastewater Discharge Permit Requirement

- A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the City, except that a Significant Industrial User that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.
- B. The City may require other Users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 11 and 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

4.3 Wastewater Discharge Permitting: Existing Connections

Any User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the City for a wastewater discharge permit in accordance with Section 4.5 of this ordinance, and

shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the City.

4.4 Wastewater Discharge Permitting: New Connections

Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.5 of this ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

4.5 Wastewater Discharge Permit Application Contents

All Users required to obtain a wastewater discharge permit must submit a permit application together with an application specified in the Schedule of Fees authorized by Section 14.1 of this ordinance. The City Administrator may require all Users to submit as part of an application the following information:

- A. All information required by Section 6.1(B) of this ordinance;
- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

- G. All plans and operating procedures required by Section 2.7 of this ordinance;
- H. Time and duration of discharges;
- I. The facility's SIC code or codes; and
- J. A statement by the permit applicant that it will allow the City timely access to its facility to enforce the provisions of this ordinance.
- K. A statement that the applicant will reimburse the City for all costs incurred by the City in enforcing the provisions of this ordinance against such applicant.
- L. Any other information as may be deemed necessary by the City to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

4.6 Application Signatories and Certification

All wastewater discharge permit applications and User reports must be signed by an authorized representative of the User and contain the following certification statement:

"I certify under 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."

4.7 Wastewater Discharge Permit Decisions

The City will evaluate the data furnished by the User and may require additional information to determine whether the proposed User will comply with this ordinance. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the City Administrator will determine whether or not to issue a wastewater discharge permit. The City Administrator may deny any application for a wastewater discharge permit if he or she deems that the proposed User has not demonstrated adequate proof that it can comply with this ordinance. Such decision to deny an application for a wastewater discharge permit shall be appealable through the procedures provided in Section 11.7 of this ordinance.

SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the City Administrator. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Administrator to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 5.4 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including Best Management Practices, based on applicable pretreatment standards;

- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
 - (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
 - (6) Requirement to control Slug Discharge, if determined by the City Administrator to be necessary.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (8) Other conditions as deemed appropriate by the City Administrator to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

5.3 Wastewater Discharge Permit Modification

The City Administrator may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the POTW, City personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- H. To reflect changes in the City's form of wastewater discharge permit or to correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.4 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the City Administrator and the City Administrator approves the wastewater discharge permit transfer. The notice to the City Administrator must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and

- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.5 Wastewater Discharge Permit Revocation

The City Administrator may propose revocation of a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the City Administrator of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City Administrator of changed conditions pursuant to Section 6.5 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the City timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

The procedures for termination of discharge, as provided in Section 11.6 of this ordinance, shall be followed in revocation of a permit.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular User are void upon the issuance of a new wastewater discharge permit to that User.

5.6 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater discharge permit.

5.7 Regulation of Waste Received From Outside the City Limits and From Other Jurisdictions

A. Regulation of Individual Users Outside City Limits

If a person outside the City limits wishes to contribute wastewater to the City's POTW such person may submit a request to the City Administrator for a determination of availability of wastewater treatment service. The City in its sole discretion may offer wastewater treatment service to such person provided that such person agree by signature of the authorized representative of the User (1) to be bound by all provisions of this ordinance and all documents and provisions constituting part of the City's Industrial Pretreatment Program; (2) to submit to the jurisdiction of the City with respect to all wastewater treatment matters, and (3) to submit to the jurisdiction of the City for any and all enforcement of this ordinance and any permit issued hereunder.

B. Regulation of Wastewater Received from Other Jurisdictions

1. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the City shall enter into an inter-municipal agreement with the contributing municipality.
2. Prior to entering into an agreement required by paragraph A, above, the City shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

- (2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the City may deem necessary.
3. An inter-municipal agreement, as required by paragraph A, above, shall contain the following conditions:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 2.6 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this ordinance or local limits;
 - (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the City Administrator; and which of these activities will be conducted jointly by the contributing municipality and the City Administrator;
 - (4) A requirement for the contributing municipality to provide the City Administrator with access to all information that the contributing municipality obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
 - (6) Requirements for monitoring the contributing municipality's discharge;
 - (7) A provision ensuring the City Administrator access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the City; and
 - (8) A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

SECTION 6 - REPORTING REQUIREMENTS

The City is authorized to receive and analyze all reports and other notices submitted by Users under this ordinance.

6.1 Baseline Monitoring Reports

- A. Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the City Administrator a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the City Administrator a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - (5) Measurement of Pollutants.
 - (a) The Categorical Pretreatment Standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the City, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance.

- (c) Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.
- (6) Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(7) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report, signed and certified in accordance with Section 4.6, to the City Administrator no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the City Administrator.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the City Administrator a report containing the information described in Section 6.1(B)(4-6) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.4 Periodic Compliance Reports

- A. All permitted Industrial Users shall, at a frequency determined by the City, but in no case less than once each calendar quarter, analyze their discharge to the POTW and submit a report to the City Administrator indicating the nature and concentration of pollutants in the discharge which are limited by any Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the City Administrator or the applicable Pretreatment Standard to determine compliance with the Pretreatment Standard. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.
- B. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
- C. If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the City, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each User must notify the City Administrator of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- A. The City Administrator may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this ordinance.
- B. The City Administrator may issue a wastewater discharge permit under Section 4.7 of this ordinance or modify an existing wastewater discharge permit under Section 5.3 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty-five (25%) or greater, increases in the mass or concentration of any pollutant, and the discharge of any previously unreported pollutants.

6.6 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the User shall immediately telephone and notify the City Administrator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- B. The City may require that the User submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- D. SIUs are required to notify the City Administrator immediately of any changes at its facility affecting potential for a slug discharge. If the City Administrator decides that a slug control plan is needed, the plan shall contain the elements in section 98-532

6.7 Reports from Unpermitted Users

All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the City Administrator may require.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the City Administrator within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation. Where the City has performed the sampling and analysis in lieu of the Industrial User, the City must perform the repeat sampling and analysis unless the City notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

- i. The City performs sampling at the Industrial User at a frequency of at least once per month; or
- ii. The City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling.

6.9 Notification of the Discharge of Hazardous Waste

- A. Any User who commences the discharge of hazardous waste shall notify the City Administrator, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this ordinance. The notification requirement in this section does not apply to pollutants

already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.

- B. Users are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the City Administrator, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this section, an authorized representative of the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

6.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by ADEQ.

6.11 Sample Collection

- A. For reports required pursuant to sections 98-619 and 98-620 the City shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must

be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the City Administrator, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 410 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City Administrator, as appropriate.

- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For reports required pursuant to sections 98-617 and 98-619 a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and degrease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum.

6.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

6.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 98-506. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed

the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the City.

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The City Administrator or an authorized representative shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the City Administrator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City Administrator will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The City Administrator shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- C. The City Administrator may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at manufacturer's recommended frequency to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the City Administrator and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Unreasonable delays in allowing the City Administrator access to the User's premises shall be a violation of this ordinance.

7.2 Search Warrants

If the City Administrator has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City Administrator may seek issuance of a search warrant from a court of competent jurisdiction.

SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the City's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The City shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the Users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Division 2 of this article;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including instantaneous Limits, as defined by Division 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Division 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the City Administrator determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s) which the City determines will adversely affect the operation or implementation of the local pretreatment program, including a violation of Best Management Practices.

SECTION 10 - DISCHARGE OF HAULED WASTEWATER

10.1 Septic Tank Wastewater

- A. Septic tank wastewater may be introduced into the POTW only at locations designated by the City Administrator, and at such times as are established by the City Administrator. Such waste shall not violate Section 2 of this ordinance or any other

requirements established by the City and must meet all applicable federal, state and local standards. Haulers of septic tank waste must obtain a written authorization from the City Administrator prior to introducing waste to the POTW. The City Administrator may require that the applicant for an authorization provide all information reasonably necessary as determined by the City Administrator.

10.2 Industrial Wastewater

- A. The City Administrator shall require haulers of industrial wastewater to obtain a written authorization from the City Administrator prior to introducing waste to the POTW. The discharge of hauled industrial wastewater is subject to all requirements of this ordinance and must meet all applicable federal, state and local standards, including, but not limited to, categorical pretreatment standards and technically-based local limits.
- B. Industrial wastewater haulers may discharge loads only at locations designated by the City Administrator, and at such times as are established by the City Administrator. The City Administrator may collect samples of each hauled load to ensure compliance with all applicable federal, state and local standards, including, but not limited to, categorical pretreatment standards and technically-based local limits. The City Administrator may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- C. Industrial wastewater haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, authorization number, truck identification, names and addresses of sources of wastewater, and volume and characteristics of wastewater. The waste-tracking form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 11 - ADMINISTRATIVE ENFORCEMENT REMEDIES

11.1 Notification of Violation

When the City Administrator or an authorized representative finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon that User a written Notice of Violation. Within thirty (30) days of the date of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the City Administrator. Submission of this plan in no way relieves the User of liability for any violations occurring

before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City Administrator or an authorized representative to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

11.2 Show Cause Order and Hearing

The City Administrator may order a User that has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the City Administrator or other representative of the City and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the User. Neither a show cause order nor a show cause hearing shall be a bar against, or prerequisite for, taking any other action against the User. At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded by a licensed certified court reporter. A hearing transcript will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

11.3 Administrative Fines

- A. When the City Administrator finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Administrator may fine such User in an amount not to exceed \$1,000 per violation per day. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine. Such fines may be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines may be assessed for each day during the period of violation. Such fines may be issued prior to or subsequent to a hearing.
- B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of three percent (3%) per month. A lien against the User's property will be sought for unpaid charges, fines, and penalties.

- C. Users may appeal administrative fines as provided in Section 11.7 of this ordinance.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

11.4 Administrative Orders (Compliance Order, Cease and Desist Order, and Consent Order)

When the City Administrator finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Administrator may issue an administrative order as follows:

- A. A compliance order may be issued to direct the User to come into compliance within a specified time. Such order may establish compliance schedules setting forth increments of progress in the form of dates for activities necessary to achieve and maintain compliance. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement.
- B. A cease and desist order may be issued to require the User to cease and desist all violations immediately. A cease and desist order may also direct the user to immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continued or threatened violation, including halting operations and/or terminating the discharge of wastewater.
- C. A consent order may also be entered by the City after a User has agreed to a compliance schedule and any stipulated fines imposed by the City. A consent order will include specific action to be taken by the user to remedy the noncompliance within the time specified. Such consent order shall not be effective unless and until signed by the Mayor.

Issuance of an administrative order shall not be a bar against, or a prerequisite for, taking any other action against the User.

11.5 Emergency Suspensions

The City Administrator may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The City Administrator may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the City may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings in Section 11.6 of this ordinance are initiated against the User.
- B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City prior to the date of any show cause or termination hearing under Sections 11.2 or 11.6 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

11.6 Termination of Discharge

In addition to the provisions in Section 5.5 of this ordinance for wastewater discharge permit revocation, any User who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 2 of this ordinance.

Such User shall be notified of the proposed termination of its discharge and be offered an opportunity to appear before the Board of Directors to show cause under Section 11.2 of this ordinance why the proposed action should not be taken. Exercise of this option by the City Administrator shall not be a bar to, or a prerequisite for, taking any other action against the User.

11.7 Appeal to Board of Directors

Any Enforcement Action taken by the City or its authorized representative, but not having been decided upon by the Board of Directors, or any decision by the City Administrator to deny permit issuance, shall be appealable to the Board of Directors by filing a written Notice of Appeal stating the basis for the appeal within thirty (30) days of being notified of the Enforcement Action or decision to deny permit issuance. The Board of Directors may dismiss groundless or frivolous appeals summarily. The Board of Directors may convene a hearing on the appeal. At any hearing held pursuant to this Section, testimony taken must be under oath and recorded by a licensed certified court reporter. A hearing transcript will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. The Board of Directors may stay implementation of an Enforcement Action pending the appeal. Users desiring to appeal administrative fines must also make full payment of the fine amount within thirty (30) days of being notified of the fine. In the event the User's appeal of a fine is successful, the amount paid, together with any interest accruing thereto, shall be returned to the User.

SECTION 12 - JUDICIAL ENFORCEMENT REMEDIES

12.1 Injunctive Relief

When the City Administrator finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Administrator may petition a court of

competent jurisdiction through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

12.2 Civil Penalties

- A. A User who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

12.3 Criminal Prosecution

- A. A User who negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than three (3) months, or both.
- B. A User who negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than \$1,000 per violation, per day, or be subject to imprisonment for not more than six (6) months, or both. This

penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

- C. A User who intentionally and knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than one year, or both.
- D. In the event of a second conviction, a User shall be punished by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than one year, or both.

12.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any User when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant User.

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.
- C. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the User can identify the cause(s) of the upset;

- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The User has submitted the following information to the City Administrator within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.3(A) of this ordinance or the specific prohibitions in Sections 2.3(B)(3) through (7) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the pass through or interference; or

- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

- A. For the purposes of this section,
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A User may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- C.
 - (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the City Administrator, at least ten (10) days before the date of the bypass, if possible.
 - (2) A User shall submit oral notice to the City Administrator of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City Administrator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D.
 - (1) Bypass is prohibited, and the City may take an enforcement action against a User for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The User submitted notices as required under paragraph (C) of this section.
- (2) The City Administrator may approve an anticipated bypass, after considering its adverse effects, if the City Administrator determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 14 - WASTEWATER TREATMENT RATES

14.1 Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports submitted by Users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals; and
- E. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City .

14.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

SECTION 15 - EMERGENCY DECLARATION

EMERGENCY CLAUSE: To delay implementing this ordinance would be an undue hardship and would be adverse to the best interest of the Citizens of the City of Siloam Springs. Therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect upon passage and adoption.

SECTION 16 - EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

PASSED AND APPROVED by the Board of Directors of the City of Siloam Springs, Benton County, Arkansas this ___ day of _____, 2009.

APPROVED:

Mayor

ATTEST

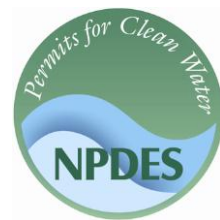
(Seal)

City Clerk

EPA MODEL PRETREATMENT ORDINANCE



Office of Wastewater Management/
Permits Division



January 2007

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

EPA 833-B-06-002

Ordinance Key

Required Pretreatment Streamlining Rule changes are designated as a ***Required Streamlining Rule Change*** in 10 point font bold italics.

[Informational notes are in brackets in 10 point bold font]

Optional requirements (not-required by 40 CFR Part 403) are labeled: “**{optional}**” in 10 point bold font.

1 EPA MODEL PRETREATMENT ORDINANCE

2
3 INTRODUCTION

4
5 The United States Environmental Protection Agency (EPA), Office of Wastewater
6 Management, Water Permits Division has prepared this Model Pretreatment Ordinance. It is for
7 use by municipalities operating Publicly Owned Treatment Works (POTWs) that are required to
8 develop pretreatment programs to regulate industrial discharges to their systems. The model
9 ordinance should also be useful for communities with POTWs that are not *required* to implement
10 a pretreatment program in drafting local ordinances to control nondomestic dischargers within
11 their jurisdictions.

12
13 A municipality should not adopt the model ordinance verbatim. Instead, the model
14 ordinance should be used as a guide for adopting new or revised provisions of local law to
15 implement and enforce a pretreatment program that fulfills requirements set out in the *Code of*
16 *Federal Regulations* (CFR). The municipality must consider conditions at its POTW and consult
17 State law to determine what adjustments might need to be made to the model ordinance and what
18 provisions are authorized under State law. Many provisions in the model ordinance contain
19 blanks or brackets; these indicate that the provision must be adapted to the POTW's
20 circumstances. Also, bracketed notes in bold, 10 point print are provided for certain provisions,
21 explaining issues the municipality must consider when crafting local provisions. To remove the
22 line numbering go to *File > Page Setup > Layout*. Under *Preview* and *Apply to:* select *Whole*
23 *document order*. Then click on *Line Numbers* and deselect *Add line numbering*.

24
25 Some provisions in the model ordinance are not strictly required by the General
26 Pretreatment Regulations (40 CFR Part 403); however, they have been included because they
27 may be useful in ensuring that the municipality has adequate legal authority to effectively
28 implement its local pretreatment program. In addition, the model ordinance includes additional,
29 other provisions that, while included in the "Pretreatment Streamlining Rule (October 14, 2005,
30 70 FR 60134) are not required elements of a local pretreatment program. These provisions are
31 designated as optional, and are indicated as such in the ordinance by "{**optional**}". Furthermore,
32 POTWs considering adopting the non-required provisions of the *Pretreatment Streamlining Rule*
33 should verify with their Approval Authority to determine whether these optional items are
34 available for implementation. Where a municipality either must adopt a provision similar to the
35 one in the model ordinance or develop its own means of accomplishing that section's objective,
36 the section is preceded by a bracketed note explaining the municipality's options. Other
37 provisions, such as the model ordinance's statement of purpose and effective date, are necessary
38 only to the extent that they are typical of any local ordinance.

39
40 POTWs should be aware that any change to their pretreatment ordinance is considered a
41 modification to their approved pretreatment program. All modifications to a POTW's approved
42 pretreatment program must be submitted to the Approval Authority in accordance with 40 CFR
43 403.18. It is EPA's expectation that States will review POTW ordinances to ensure that the
44 ordinances are consistent with State law. POTWs should request this review from their States.
45

46 EPA Regions and representatives of various States and municipalities provided valuable
47 comments in helping to prepare this document.

48
49 This EPA Model Pretreatment Ordinance also is available on EPA's Web site at
50 <http://www.epa.gov/npdes/pretreatment> in Adobe PDF7® format.

51

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EPA MODEL PRETREATMENT ORDINANCE

ORDINANCE NO. []

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the [City of] and enables [the City] to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. **{Optional}** To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable [the City] to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits [or general permit **{optional}**]; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; [and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. **{Optional}** **[Note: Not all programs distribute the cost of the program through fees (some come out of the general budget) so Section 15 may not be applicable to your municipality and indicates that it is optional to have pretreatment charges and fees.]**

196 1.2 Administration

197
198 Except as otherwise provided herein, [the Superintendent] shall administer, implement, and
199 enforce the provisions of this ordinance. Any powers granted to or duties imposed upon [the
200 Superintendent] may be delegated by [the Superintendent] to a duly authorized [City] employee.
201

202 1.3 Abbreviations

203
204 The following abbreviations, when used in this ordinance, shall have the designated meanings:
205

- 206 BOD – Biochemical Oxygen Demand
- 207 BMP – Best Management Practice
- 208 BMR – Baseline Monitoring Report
- 209 CFR – *Code of Federal Regulations*
- 210 CIU – Categorical Industrial User
- 211 COD – Chemical Oxygen Demand
- 212 EPA – U.S. Environmental Protection Agency
- 213 gpd – gallons per day
- 214 IU – Industrial User
- 215 mg/l – milligrams per liter
- 216 NPDES – National Pollutant Discharge Elimination System
- 217 NSCIU – Non-Significant Categorical Industrial User
- 218 POTW – Publicly Owned Treatment Works
- 219 RCRA – Resource Conservation and Recovery Act
- 220 SIU – Significant Industrial User
- 221 SNC – Significant Noncompliance
- 222 TSS – Total Suspended Solids
- 223 U.S.C. – United States Code

224
225 1.4 Definitions

226
227 Unless a provision explicitly states otherwise, the following terms and phrases, as used in this
228 ordinance, shall have the meanings hereinafter designated.
229

230 **[Note: Each of the terms and phrases defined below are used at least once in the ordinance. When the**
231 **municipality adopts its final version of the ordinance, it should delete from this Section all terms not used.]**
232

233 A. Act or “the Act.” The Federal Water Pollution Control Act, also known as the Clean
234 Water Act, as amended, 33 U.S.C. section 1251 et seq.
235

236 B. Approval Authority. **[Note: Designate the State as the Approval Authority if the State has an**
237 **EPA-approved pretreatment program. Alternatively, designate the appropriate Regional**
238 **Administrator of EPA as the Approval Authority in a nonapproved State.]**
239

240 C. Authorized or Duly Authorized Representative of the User.

241
242 (1) If the User is a corporation:

243
244 (a) The president, secretary, treasurer, or a vice-president of the corporation in
245 charge of a principal business function, or any other person who performs similar
246 policy or decision-making functions for the corporation; or

247
248 (b) The manager of one or more manufacturing, production, or operating
249 facilities, provided the manager is authorized to make management decisions that
250 govern the operation of the regulated facility including having the explicit or
251 implicit duty of making major capital investment recommendations, and initiate
252 and direct other comprehensive measures to assure long-term environmental
253 compliance with environmental laws and regulations; can ensure that the
254 necessary systems are established or actions taken to gather complete and
255 accurate information for individual wastewater discharge permit [or general
256 permit {optional}] requirements; and where authority to sign documents has been
257 assigned or delegated to the manager in accordance with corporate procedures.

258
259 (2) If the User is a partnership or sole proprietorship: a general partner or
260 proprietor, respectively.

261
262 (3) If the User is a Federal, State, or local governmental facility: a director or
263 highest official appointed or designated to oversee the operation and performance
264 of the activities of the government facility, or their designee.

265
266 (4) The individuals described in paragraphs 1 through 3, above, may designate a
267 Duly Authorized Representative if the authorization is in writing, the
268 authorization specifies the individual or position responsible for the overall
269 operation of the facility from which the discharge originates or having overall
270 responsibility for environmental matters for the company, and the written
271 authorization is submitted to [the City].

272
273 D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the
274 biochemical oxidation of organic matter under standard laboratory procedures for five (5)
275 days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

276
277 E. Best Management Practices or BMPs means schedules of activities, prohibitions of
278 practices, maintenance procedures, and other management practices to implement the
279 prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include
280 treatment requirements, operating procedures, and practices to control plant site runoff,
281 spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note:
282 BMPs also include alternative means (i.e., management plans) of complying with, or in place of
283 certain established categorical Pretreatment Standards and effluent limits.]
284

- 285 F. Categorical Pretreatment Standard or Categorical Standard. Any regulation
286 containing pollutant discharge limits promulgated by EPA in accordance with sections
287 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of
288 Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
289
- 290 G. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment
291 Standard or categorical Standard.
292
- 293 H. [City]. [The City of] or [the City Council of].
294
- 295 I. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all
296 compounds, both organic and inorganic, in water.
297
- 298 J. Control Authority. The [City]
299
- 300 K. Daily Maximum. The arithmetic average of all effluent samples for a pollutant
301 collected during a calendar day.
302
- 303 L. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant
304 during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the
305 daily discharge is the total mass discharged over the course of the day. Where Daily
306 Maximum Limits are expressed in terms of a concentration, the daily discharge is the
307 arithmetic average measurement of the pollutant concentration derived from all
308 measurements taken that day.
309
- 310 M. Environmental Protection Agency or EPA. The U.S. Environmental Protection
311 Agency or, where appropriate, the Regional Water Management Division Director, the
312 Regional Administrator, or other duly authorized official of said agency.
313
- 314 K. Existing Source. Any source of discharge that is not a “New Source.”
315
- 316 L. Grab Sample. A sample that is taken from a wastestream without regard to the
317 flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
318
- 319 M. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from
320 any nondomestic source.
321
- 322 N. Instantaneous Limit. The maximum concentration of a pollutant allowed to be
323 discharged at any time, determined from the analysis of any discrete or composited
324 sample collected, independent of the industrial flow rate and the duration of the sampling
325 event. **[Note: If the POTW would like the flexibility to measure compliance with either a single grab
326 sample or sample representative of the discharge day, the POTW should establish both Daily
327 Maximum and Instantaneous Limits.]**
328
- 329 O. Interference. A discharge that, alone or in conjunction with a discharge or discharges
330 from other sources, inhibits or disrupts the POTW, its treatment processes or operations
331 or its sludge processes, use or disposal; and therefore, is a cause of a violation of [the

332 City's] NPDES permit or of the prevention of sewage sludge use or disposal in
333 compliance with any of the following statutory/regulatory provisions or permits issued
334 thereunder, or any more stringent State or local regulations: section 405 of the Act; the
335 Solid Waste Disposal Act, including Title II commonly referred to as the Resource
336 Conservation and Recovery Act (RCRA); any State regulations contained in any State
337 sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal
338 Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection,
339 Research, and Sanctuaries Act.

340
341 P. Local Limit. Specific discharge limits developed and enforced by [the City] upon
342 industrial or commercial facilities to implement the general and specific discharge
343 prohibitions listed in 40 CFR 403.5(a)(1) and (b).
344

345 Q. Medical Waste. Isolation wastes, infectious agents, human blood and blood products,
346 pathological wastes, sharps, body parts, contaminated bedding, surgical wastes,
347 potentially contaminated laboratory wastes, and dialysis wastes.
348

349 R. Monthly Average. The sum of all "daily discharges" measured during a calendar
350 month divided by the number of "daily discharges" measured during that month.
351

352 S. Monthly Average Limit. The highest allowable average of "daily discharges" over a
353 calendar month, calculated as the sum of all "daily discharges" measured during a
354 calendar month divided by the number of "daily discharges" measured during that month.
355

356 T. New Source.
357

358 (1) Any building, structure, facility, or installation from which there is (or may
359 be) a discharge of pollutants, the construction of which commenced after the
360 publication of proposed Pretreatment Standards under section 307(c) of the Act
361 that will be applicable to such source if such Standards are thereafter promulgated
362 in accordance with that section, provided that:
363

364 (a) The building, structure, facility, or installation is constructed at a site at which
365 no other source is located; or

366 (b) The building, structure, facility, or installation totally replaces the process or
367 production equipment that causes the discharge of pollutants at an Existing
368 Source; or

369 (c) The production or wastewater generating processes of the building, structure,
370 facility, or installation are substantially independent of an Existing Source at the
371 same site. In determining whether these are substantially independent, factors
372 such as the extent to which the new facility is integrated with the existing plant,
373 and the extent to which the new facility is engaged in the same general type of
374 activity as the Existing Source, should be considered.
375

376 (2) Construction on a site at which an Existing Source is located results in a
377 modification rather than a New Source if the construction does not create a new

378 building, structure, facility, or installation meeting the criteria of Section (1)(b) or
379 (c) above but otherwise alters, replaces, or adds to existing process or production
380 equipment.

381
382 (3) Construction of a New Source as defined under this paragraph has commenced
383 if the owner or operator has:

384 (a) Begun, or caused to begin, as part of a continuous onsite construction program

385
386 (i) any placement, assembly, or installation of facilities or equipment; or
387 (ii) significant site preparation work including clearing, excavation, or
388 removal of existing buildings, structures, or facilities which is necessary for
389 the placement, assembly, or installation of new source facilities or equipment;
390
391 or

392
393 (b) Entered into a binding contractual obligation for the purchase of facilities or
394 equipment which are intended to be used in its operation within a reasonable time.
395 Options to purchase or contracts which can be terminated or modified without
396 substantial loss, and contracts for feasibility, engineering, and design studies do
397 not constitute a contractual obligation under this paragraph.

398
399 U. Noncontact Cooling Water. Water used for cooling that does not come into direct
400 contact with any raw material, intermediate product, waste product, or finished product.

401
402 V. Pass Through. A discharge which exits the POTW into waters of the United States in
403 quantities or concentrations which, alone or in conjunction with a discharge or discharges
404 from other sources, is a cause of a violation of any requirement of [the City's] NPDES
405 permit, including an increase in the magnitude or duration of a violation.

406
407 W. Person. Any individual, partnership, copartnership, firm, company, corporation,
408 association, joint stock company, trust, estate, governmental entity, or any other legal
409 entity; or their legal representatives, agents, or assigns. This definition includes all
410 Federal, State, and local governmental entities.

411
412 X. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

413
414 Y. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage,
415 garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological
416 materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar
417 dirt, municipal, agricultural and industrial wastes, and certain characteristics of
418 wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

419
420 Z. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants,
421 or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of,
422 introducing such pollutants into the POTW. This reduction or alteration can be obtained
423 by physical, chemical, or biological processes; by process changes; or by other means,

424 except by diluting the concentration of the pollutants unless allowed by an applicable
425 Pretreatment Standard.

426
427 AA. Pretreatment Requirements. Any substantive or procedural requirement related to
428 pretreatment imposed on a User, other than a Pretreatment Standard.

429
430 BB. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited
431 discharge standards, categorical Pretreatment Standards, and Local Limits.

432
433 CC. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions
434 against the discharge of certain substances; these prohibitions appear in Section 2.1 of
435 this ordinance.

436
437 DD. Publicly Owned Treatment Works or POTW. A treatment works, as defined by
438 section 212 of the Act (33 U.S.C. section 1292), which is owned by [the City]. This
439 definition includes any devices or systems used in the collection, storage, treatment,
440 recycling, and reclamation of sewage or industrial wastes of a liquid nature and any
441 conveyances, which convey wastewater to a treatment plant.

442
443 EE. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical
444 toilets, campers, trailers, and septic tanks.

445
446 FF. Sewage. Human excrement and gray water (household showers, dishwashing
447 operations, etc.).

448
449 GG. Significant Industrial User (SIU).

450
451 Except as provided in paragraphs (3) and (4) of this Section, a Significant
452 Industrial User is:

- 453
454 (1) An Industrial User subject to categorical Pretreatment Standards; or
455
456 (2) An Industrial User that:
457
458 (a) Discharges an average of twenty-five thousand (25,000) gpd or more of
459 process wastewater to the POTW (excluding sanitary, noncontact cooling and
460 boiler blowdown wastewater);
461 (b) Contributes a process wastestream which makes up five (5) percent or more of
462 the average dry weather hydraulic or organic capacity of the POTW treatment
463 plant; or
464 (c) Is designated as such by [the City] on the basis that it has a reasonable
465 potential for adversely affecting the POTW's operation or for violating any
466 Pretreatment Standard or Requirement.

467
468 **{Optional} [Note: The following provision may be included in the local ordinances only if authorized under**
469 **State law. Criteria for reduced reporting must also include any criteria defined in applicable State**
470 **requirements.]**

471
472 (3) The [City] may determine that an Industrial User subject to categorical
473 Pretreatment Standards is a Non-Significant Categorical Industrial User rather
474 than a Significant Industrial User on a finding that the Industrial User never
475 discharges more than 100 gallons per day (gpd) of total categorical wastewater
476 (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless
477 specifically included in the Pretreatment Standard) and the following conditions
478 are met:

- 479
480 (a) The Industrial User, prior to [City's] finding, has consistently complied with
481 all applicable categorical Pretreatment Standards and Requirements;
482 (b) The Industrial User annually submits the certification statement required in
483 Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information
484 necessary to support the certification statement; and
485 (c) The Industrial User never discharges any untreated concentrated wastewater.

486
487 (4) Upon a finding that a User meeting the criteria in Subsection (2) of this part
488 has no reasonable potential for adversely affecting the POTW's operation or for
489 violating any Pretreatment Standard or Requirement, [the City] may at any time,
490 on its own initiative or in response to a petition received from an Industrial User,
491 and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such
492 User should not be considered a Significant Industrial User.

493
494 HH. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which
495 could cause a violation of the prohibited discharge standards in Section 2.1 of this
496 ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature,
497 including but not limited to an accidental spill or a non-customary batch Discharge,
498 which has a reasonable potential to cause Interference or Pass Through, or in any other
499 way violate the POTW's regulations, Local Limits or Permit conditions.

500
501 II. Storm Water. Any flow occurring during or following any form of natural
502 precipitation, and resulting from such precipitation, including snowmelt.

503
504 JJ. [Superintendent]. The person designated by [the City] to supervise the operation of
505 the POTW, and who is charged with certain duties and responsibilities by this ordinance.
506 The term also means a Duly Authorized Representative of the [Superintendent].

507
508 KK. Total Suspended Solids or Suspended Solids. The total suspended matter that floats
509 on the surface of, or is suspended in, water, wastewater, or other liquid, and that is
510 removable by laboratory filtering.

511
512 LL. User or Industrial User. A source of indirect discharge.

513
514 MM. Wastewater. Liquid and water-carried industrial wastes and sewage from
515 residential dwellings, commercial buildings, industrial and manufacturing facilities, and
516 institutions, whether treated or untreated, which are contributed to the POTW.

517
 518 NN. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which
 519 is designed to provide treatment of municipal sewage and industrial waste.
 520

521 SECTION 2—GENERAL SEWER USE REQUIREMENTS

522

523 2.1 Prohibited Discharge Standards

524

525 A. General Prohibitions. No User shall introduce or cause to be introduced into the
 526 POTW any pollutant or wastewater which causes Pass Through or Interference. These
 527 general prohibitions apply to all Users of the POTW whether or not they are subject to
 528 categorical Pretreatment Standards or any other National, State, or local Pretreatment
 529 Standards or Requirements.

530

531 B. Specific Prohibitions. No User shall introduce or cause to be introduced into the
 532 POTW the following pollutants, substances, or wastewater:

533

534 (1) Pollutants which create a fire or explosive hazard in the POTW, including,
 535 but not limited to, wastestreams with a closed-cup flashpoint of less than 140
 536 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
 537

538

539 (2) Wastewater having a pH less than 5.0 [or more than ____], or otherwise
 540 causing corrosive structural damage to the POTW or equipment;

541

542 **[Note: The municipality should be aware that the General Pretreatment Regulations at 40 CFR 403.5(b) do**
 543 **not set an upper pH limit, although many municipalities find such a limit necessary or useful. If the**
 544 **municipality wishes to set an upper pH limit, it should insert one in this Section. 40 CFR 261.22 established**
 545 **that wastes discharged with a pH over 12.5 are considered corrosive hazardous wastes and therefore, the**
 546 **POTW would need to comply with applicable requirements under the Resource Conservation and Recovery**
 547 **Act and implementing regulations for Treatment, Storage, and Disposal facilities if such wastes are delivered**
 548 **to the POTW by truck, rail, or dedicated pipe. Accordingly, if the POTW chooses to prohibit discharge of**
 549 **characteristic hazardous wastes, the upper pH limit must be no greater than 12.5.]**

549

550 (3) Solid or viscous substances in amounts which will cause obstruction of the
 551 flow in the POTW resulting in Interference [but in no case solids greater
 552 than ____ inch(es) (____”) or ____ centimeter(s) (____ cm) in any
 553 dimension];

554

555 (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a
 556 discharge at a flow rate and/or pollutant concentration which, either singly or by
 557 interaction with other pollutants, will cause Interference with the POTW;

558

559 (5) Wastewater having a temperature greater than [____ degrees F (____ degrees
 560 C)], or which will inhibit biological activity in the treatment plant resulting in
 561 Interference, but in no case wastewater which causes the temperature at the
 562 introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
 563

564 (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin,
565 in amounts that will cause Interference or Pass Through;

566
567 (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within
568 the POTW in a quantity that may cause acute worker health and safety problems;

569
570 (8) Trucked or hauled pollutants, except at discharge points designated by [the
571 Superintendent] in accordance with Section 3.4 of this ordinance;

572
573 **{Note: Discharge prohibitions B.(1) through B.(8) are mandatory National Pretreatment Standards**
574 **and must be included in the ordinance; discharge prohibitions B.(9) through B.(18) below are**
575 **optional.}**

576
577 (9) Noxious or malodorous liquids, gases, solids, or other wastewater which,
578 either singly or by interaction with other wastes, are sufficient to create a public
579 nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or
580 repair; **{optional}**

581
582 (10) Wastewater which imparts color which cannot be removed by the treatment
583 process, such as, but not limited to, dye wastes and vegetable tanning solutions,
584 which consequently imparts color to the treatment plant's effluent, thereby
585 violating [the City's] NPDES permit; **{optional}**

586
587 (11) Wastewater containing any radioactive wastes or isotopes except in
588 compliance with applicable State or Federal regulations; **{optional}**

589
590 (12) Storm Water, surface water, ground water, artesian well water, roof runoff,
591 subsurface drainage, swimming pool drainage, condensate, deionized water,
592 Noncontact Cooling Water, and unpolluted wastewater, unless specifically
593 authorized by [the Superintendent]; **{optional}**

594
595 (13) Sludges, screenings, or other residues from the pretreatment of industrial
596 wastes; **{optional}**

597
598 (14) Medical Wastes, except as specifically authorized by [the Superintendent] in
599 an individual wastewater discharge permit [or a general permit **{optional}**];
600 **{optional}**

601
602 (15) Wastewater causing, alone or in conjunction with other sources, the
603 treatment plant's effluent to fail toxicity test; **{optional}**

604
605 (16) Detergents, surface-active agents, or other substances which that might cause
606 excessive foaming in the POTW; **{optional}**

607
608 (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater
609 than [() mg/l]; **{Note: Numeric limits for these pollutants may be placed in**
610 **Section 2.4} {optional}**

611
 612 (18) Wastewater causing two readings on an explosion hazard meter at the point
 613 of discharge into the POTW, or at any point in the POTW, of more than [_____
 614 percent (____%)] or any single reading over [_____
 615 percent (____%)] of the
 616 Lower Explosive Limit of the meter. {optional}

617 Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored
 618 in such a manner that they could be discharged to the POTW.

619 2.2 National Categorical Pretreatment Standards

621 Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I,
 622 Subchapter N, Parts 405–471.

623
 624 **[Note: State procedures for incorporation by reference must be followed. EPA regulations at 40 CFR 403.13**
 625 **authorize a CIU to obtain a variance from a categorical Pretreatment Standard if the CIU can prove,**
 626 **pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge**
 627 **are fundamentally different from the factors considered by EPA when developing the categorical**
 628 **Pretreatment Standard. The POTW might need to include a provision authorizing it to incorporate or**
 629 **recognize revised Standards if the User has obtained an FDF variance from EPA on the basis of 40 CFR**
 630 **403.13. That CIU’s Standards would be replaced by the revised FDF variance Standard.]**

631
 632
 633 A. Where a categorical Pretreatment Standard is expressed only in terms of either the
 634 mass or the concentration of a pollutant in wastewater, [the Superintendent] may impose
 635 equivalent concentration or mass limits in accordance with Section 2.2E and 2.2F.
 636 {Optional} [Note: See 40 CFR 403.6(c)]

637
 638 B. When the limits in a categorical Pretreatment Standard are expressed only in terms of
 639 mass of pollutant per unit of production, the [Superintendent] may convert the limits to
 640 equivalent limitations expressed either as mass of pollutant discharged per day or effluent
 641 concentration for purposes of calculating effluent limitations applicable to individual
 642 Industrial Users. {Optional} [Note: See 40 CFR 403.6(c)(2)]

643
 644 C. When wastewater subject to a categorical Pretreatment Standard is mixed with
 645 wastewater not regulated by the same Standard, [the Superintendent] shall impose an
 646 alternate limit in accordance with 40 CFR 403.6(e).

647
 648 {Optional}[Note: The following provision may be included in the local ordinance at the
 649 municipality’s discretion.]

650
 651 D. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in
 652 accordance with the following paragraphs of this Section. [Note: See 40 CFR 403.15]

653
 654 (1) Categorical Pretreatment Standards may be adjusted to reflect the presence of
 655 pollutants in the Industrial User’s intake water in accordance with this Section.
 656 Any Industrial User wishing to obtain credit for intake pollutants must make
 657 application to the [City]. Upon request of the Industrial User, the applicable
 658 Standard will be calculated on a “net” basis (i.e., adjusted to reflect credit for

659 pollutants in the intake water) if the requirements of paragraph (2) of this Section
660 are met.

661 (2) Criteria.

- 662 a. Either (i) The applicable categorical Pretreatment Standards contained in 40
663 CFR subchapter N specifically provide that they shall be applied on a net
664 basis; or (ii) The Industrial User demonstrates that the control system it
665 proposes or uses to meet applicable categorical Pretreatment Standards would,
666 if properly installed and operated, meet the Standards in the absence of
667 pollutants in the intake waters.
- 668 b. Credit for generic pollutants such as biochemical oxygen demand (BOD),
669 total suspended solids (TSS), and oil and grease should not be granted unless
670 the Industrial User demonstrates that the constituents of the generic measure
671 in the User's effluent are substantially similar to the constituents of the
672 generic measure in the intake water or unless appropriate additional limits are
673 placed on process water pollutants either at the outfall or elsewhere.
- 674 c. Credit shall be granted only to the extent necessary to meet the applicable
675 categorical Pretreatment Standard(s), up to a maximum value equal to the
676 influent value. Additional monitoring may be necessary to determine
677 eligibility for credits and compliance with Standard(s) adjusted under this
678 Section.
- 679 d. Credit shall be granted only if the User demonstrates that the intake water is
680 drawn from the same body of water as that into which the POTW discharges.
681 The [City] may waive this requirement if it finds that no environmental
682 degradation will result.

683
684 **{Optional} [Note: The following optional provision may be included in the local ordinances only if authorized**
685 **under State law.]**
686

687 E. When a categorical Pretreatment Standard is expressed only in terms of pollutant
688 concentrations, an Industrial User may request that [the City] convert the limits to
689 equivalent mass limits. The determination to convert concentration limits to mass limits
690 is within the discretion of the [Superintendent]. [The City] may establish equivalent mass
691 limits only if the Industrial User meets all the conditions set forth in Sections 2.2E(1)(a)
692 through 2.2E(1)(e) below.

693 (1) To be eligible for equivalent mass limits, the Industrial User must:

- 694 a. Employ, or demonstrate that it will employ, water conservation methods and
695 technologies that substantially reduce water use during the term of its
696 individual wastewater discharge permit;
- 697 b. Currently use control and treatment technologies adequate to achieve
698 compliance with the applicable categorical Pretreatment Standard, and not
699 have used dilution as a substitute for treatment;
- 700 c. Provide sufficient information to establish the facility's actual average daily
701 flow rate for all wastestreams, based on data from a continuous effluent flow
702 monitoring device, as well as the facility's long-term average production rate.
703 Both the actual average daily flow rate and the long-term average production
704 rate must be representative of current operating conditions;
705

- 706 d. Not have daily flow rates, production levels, or pollutant levels that vary so
 707 significantly that equivalent mass limits are not appropriate to control the
 708 Discharge; and
 709 e. Have consistently complied with all applicable categorical Pretreatment
 710 Standards during the period prior to the Industrial User’s request for
 711 equivalent mass limits.
 712 (2) An Industrial User subject to equivalent mass limits must:
 713 a. Maintain and effectively operate control and treatment technologies adequate
 714 to achieve compliance with the equivalent mass limits;
 715 b. Continue to record the facility’s flow rates through the use of a continuous
 716 effluent flow monitoring device;
 717 c. Continue to record the facility’s production rates and notify the
 718 [Superintendent] whenever production rates are expected to vary by more than
 719 20 percent from its baseline production rates determined in paragraph
 720 2.2F(1)(c) of this Section. Upon notification of a revised production rate, the
 721 [Superintendent] will reassess the equivalent mass limit and revise the limit as
 722 necessary to reflect changed conditions at the facility; and
 723 d. Continue to employ the same or comparable water conservation methods and
 724 technologies as those implemented pursuant to paragraphs 2.2E(1)(a) of this
 725 Section so long as it discharges under an equivalent mass limit.
 726
 727 (3) When developing equivalent mass limits, the [Superintendent]:
 728 a. Will calculate the equivalent mass limit by multiplying the actual average
 729 daily flow rate of the regulated process(es) of the Industrial User by the
 730 concentration-based Daily Maximum and Monthly Average Standard for the
 731 applicable categorical Pretreatment Standard and the appropriate unit
 732 conversion factor;
 733 b. Upon notification of a revised production rate, will reassess the equivalent
 734 mass limit and recalculate the limit as necessary to reflect changed conditions
 735 at the facility; and
 736 c. May retain the same equivalent mass limit in subsequent individual
 737 wastewater discharger permit terms if the Industrial User’s actual average
 738 daily flow rate was reduced solely as a result of the implementation of water
 739 conservation methods and technologies, and the actual average daily flow
 740 rates used in the original calculation of the equivalent mass limit were not
 741 based on the use of dilution as a substitute for treatment pursuant to Section
 742 2.6. The Industrial User must also be in compliance with Section 13.3
 743 regarding the prohibition of bypass.]

744
 745 **{Optional} [Note: The following optional provisions (F–I) may be included in the local ordinances only if**
 746 **authorized under State law.]**
 747

748 F. [The Superintendent] may convert the mass limits of the categorical Pretreatment
 749 Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of
 750 calculating limitations applicable to individual Industrial Users. The conversion is at the
 751 discretion of the [Superintendent].
 752

753 [Note: When converting such limits to concentration limits, the [Superintendent] will use the
754 concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that
755 dilution is not being substituted for treatment as prohibited by Section 2.6 of this ordinance (see 40
756 CFR 403.6(d)). In addition, the [Superintendent] will document how the equivalent limits were
757 derived for any changes from concentration to mass limits, or vice versa, and make this information
758 publicly available (see 40 CFR 403.6(c)(7)).]

759
760 G. Once included in its permit, the Industrial User must comply with the equivalent
761 limitations developed in this Section (2.2) in lieu of the promulgated categorical
762 Standards from which the equivalent limitations were derived. [Note: See 40 CFR
763 403.6(c)(7)]

764
765 H. Many categorical Pretreatment Standards specify one limit for calculating maximum
766 daily discharge limitations and a second limit for calculating maximum Monthly
767 Average, or 4-day average, limitations. Where such Standards are being applied, the same
768 production or flow figure shall be used in calculating both the average and the maximum
769 equivalent limitation. [Note: See 40 CFR 403.6(c)(8)]

770
771 I. Any Industrial User operating under a permit incorporating equivalent mass or
772 concentration limits calculated from a production-based Standard shall notify the
773 [Superintendent] within two (2) business days after the User has a reasonable basis to
774 know that the production level will significantly change within the next calendar month.
775 Any User not notifying the [Superintendent] of such anticipated change will be required
776 to meet the mass or concentration limits in its permit that were based on the original
777 estimate of the long term average production rate. [Note: See 40 CFR 403.6(c)(9)]

778 779 2.3 State Pretreatment Standards

780
781 Users must comply with [State Pretreatment Standards] codified at [insert appropriate cite to
782 State statute or law].

783 784 2.4 Local Limits

785
786 [Note: Municipalities need to establish limits for some or all of the pollutants listed below, and might need to
787 set limits for pollutants not listed below. The municipality may also establish Best Management Practices
788 (BMPs) to control certain pollutants. The municipality will provide public notice and an opportunity to
789 respond to interested parties (40 CFR 403.5(c)(3)). This requirement applies whether Local Limits are set by
790 ordinance or on a case-by-case basis.]

791
792 A. The [Superintendent] is authorized to establish Local Limits pursuant to 40 CFR
793 403.5(c).

794
795 [Note: The municipality may set limits as instantaneous maximums or for other durations (e.g., Daily
796 Maximum or Monthly Average Limits). The municipality should define these durations in the definition
797 Section.]

798
799 B. The following pollutant limits are established to protect against Pass Through and
800 Interference. No person shall discharge wastewater containing in excess of the following
801 [insert the duration, for example Daily Maximum Limit].

802
 803 [Note: The approach of charging only for the “excess” loading presumes the standard sewer charges already
 804 provide appropriate payment for concentrations up to domestic strength. Many POTWs establish surcharges
 805 for conventional pollutants amenable to treatment, such as BOD₅ and TSS. Ordinances should clearly
 806 distinguish between surcharges and Local Limits. Surcharges are additional charges to recover the cost to
 807 treat wastewater that are typically assessed when discharge concentrations are above defined values, typically
 808 above domestic wastewater. Enforceable Local Limits for conventional pollutants are established where
 809 there is potential for these pollutants to be discharged to the POTW in quantities or concentrations that could
 810 exceed the POTW’s plant capacity. When IUs discharge in excess of a Local Limit, they are subject to
 811 enforcement actions.]

812			
813	[	]	mg/l ammonia
814	[	]	mg/l arsenic
815	[	]	mg/l BOD ₅
816	[	]	mg/l cadmium
817	[	]	mg/l chromium
818	[	]	mg/l copper
819	[	]	mg/l cyanide
820	[	]	mg/l lead
821	[	]	mg/l mercury
822	[	]	mg/l molybdenum
823	[	]	mg/l nitrogen (total)
824	[	]	mg/l nickel
825	[	]	mg/l oil and/or grease [Note: Oil and/or grease limits should be defined as a
826			polar, nonpolar, or total oil and grease limits.]
827	[	]	mg/l selenium
828	[	]	mg/l silver
829	[	]	mg/l total phenols
830	[	]	mg/l total suspended solids
831	[	]	mg/l zinc

832
 833 The above limits apply at the point where the wastewater is discharged to the POTW. All
 834 concentrations for metallic substances are for total metal unless indicated otherwise. [The
 835 Superintendent] may impose mass limitations in addition to the concentration-based limitations
 836 above.

837
 838 [Note: For additional information on Local Limits, refer to Local Limits Development Guidance, EPA Office
 839 of Wastewater Management, July 2004, EPA (833-R-04-002A). Available via the Web at
 840 http://www.epa.gov/npdes/pubs/final_local_limits_guidance.pdf and
 841 http://www.epa.gov/npdes/pubs/final_local_limits_appendices.pdf]

842
 843 {Optional} [Note: The following optional provision may be included in the local ordinances only if authorized
 844 under State law.]

845
 846 C. [The Superintendent] may develop Best Management Practices (BMPs), by ordinance
 847 or in individual wastewater discharge permits [or general permits {optional}], to
 848 implement Local Limits and the requirements of Section 2.1.
 849

850 2.5 [City's] Right of Revision

851
852 The [City] reserves the right to establish, by ordinance or in individual wastewater discharge
853 permits [or in general permits {optional}], more stringent Standards or Requirements on
854 discharges to the POTW consistent with the purpose of this ordinance.

855
856 2.6 Dilution

857
858 No User shall ever increase the use of process water, or in any way attempt to dilute a discharge,
859 as a partial or complete substitute for adequate treatment to achieve compliance with a discharge
860 limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement.
861 [The Superintendent] may impose mass limitations on Users who are using dilution to meet
862 applicable Pretreatment Standards or Requirements, or in other cases when the imposition of
863 mass limitations is appropriate.

864
865 SECTION 3—PRETREATMENT OF WASTEWATER

866
867 3.1 Pretreatment Facilities

868
869 Users shall provide wastewater treatment as necessary to comply with this ordinance and shall
870 achieve compliance with all categorical Pretreatment Standards, Local Limits, and the
871 prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA,
872 the State, or [the Superintendent], whichever is more stringent. Any facilities necessary for
873 compliance shall be provided, operated, and maintained at the User's expense. Detailed plans
874 describing such facilities and operating procedures shall be submitted to [the Superintendent] for
875 review, and shall be acceptable to [the Superintendent] before such facilities are constructed.
876 The review of such plans and operating procedures shall in no way relieve the User from the
877 responsibility of modifying such facilities as necessary to produce a discharge acceptable to [the
878 City] under the provisions of this ordinance.

879
880 3.2 Additional Pretreatment Measures

881
882 {Optional}[Note: The following provisions are optional. The municipality may include provisions authorizing
883 it to do the following.]

884
885 A. Whenever deemed necessary, [the Superintendent] may require Users to restrict their
886 discharge during peak flow periods, designate that certain wastewater be discharged only
887 into specific sewers, relocate and/or consolidate points of discharge, separate sewage
888 wastestreams from industrial wastestreams, and such other conditions as may be
889 necessary to protect the POTW and determine the User's compliance with the
890 requirements of this ordinance.

891
892 B. [The Superintendent] may require any person discharging into the POTW to install
893 and maintain, on their property and at their expense, a suitable storage and flow-control
894 facility to ensure equalization of flow. An individual wastewater discharge permit [or a
895 general permit {optional}] may be issued solely for flow equalization.

896

897 **[Note: The City should modify this Section to conform to design, maintenance, inspection and BMP**
 898 **requirements for oil and grease control.]**
 899

900 C. Grease, oil, and sand interceptors shall be provided when, in the opinion of [the
 901 Superintendent], they are necessary for the proper handling of wastewater containing
 902 excessive amounts of grease and oil, or sand; except that such interceptors shall not be
 903 required for residential users. All interception units shall be of a type and capacity
 904 approved by [the Superintendent], [shall comply with [the City's Oil and Grease
 905 Management ordinance (if applicable, cite), and] shall be so located to be easily
 906 accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and
 907 repaired [in accordance with [the City's Oil and Grease Management ordinance (if
 908 applicable, cite)] by the User at their expense.

909
 910 D. Users with the potential to discharge flammable substances may be required to install
 911 and maintain an approved combustible gas detection meter.
 912

913 3.3 Accidental Discharge/Slug Discharge Control Plans

914
 915 [The Superintendent] shall evaluate whether each SIU needs an accidental discharge/slug
 916 discharge control plan or other action to control Slug Discharges. [The Superintendent] may
 917 require any User to develop, submit for approval, and implement such a plan or take such other
 918 action that may be necessary to control Slug Discharges. Alternatively, [the Superintendent]
 919 may develop such a plan for any User. An accidental discharge/slug discharge control plan shall
 920 address, at a minimum, the following:

921 A. Description of discharge practices, including nonroutine batch discharges;

922 B. Description of stored chemicals;

923
 924 C. Procedures for immediately notifying [the Superintendent] of any accidental or Slug
 925 Discharge, as required by Section 6.6 of this ordinance; and
 926

927 D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such
 928 procedures include, but are not limited to, inspection and maintenance of storage areas,
 929 handling and transfer of materials, loading and unloading operations, control of plant site
 930 runoff, worker training, building of containment structures or equipment, measures for
 931 containing toxic organic pollutants, including solvents, and/or measures and equipment
 932 for emergency response.
 933

934 3.4 Hauled Wastewater

935
 936 **[Note: The municipality will ensure that hauled industrial waste is adequately regulated and should take**
 937 **measures to ensure that haulers of septic tank waste are not introducing industrial waste to the POTW. The**
 938 **following is one possible means of regulating hauled waste.]**
 939

940 A. Septic tank waste may be introduced into the POTW only at locations designated by
 941 [the Superintendent], and at such times as are established by [the Superintendent]. Such
 942
 943

944 waste shall not violate Section 2 of this ordinance or any other requirements established
945 by [the City]. [The Superintendent] may require septic tank waste haulers to obtain
946 individual wastewater discharge permits [or general permits {optional}].
947

948 B. [The Superintendent] may require haulers of industrial waste to obtain individual
949 wastewater discharge permits [or general permits {optional}]. [The Superintendent] may
950 require generators of hauled industrial waste to obtain individual wastewater discharge
951 permits [or general permits {optional}]. [The Superintendent] also may prohibit the
952 disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to
953 all other requirements of this ordinance.
954

955 C. Industrial waste haulers may discharge loads only at locations designated by [the
956 Superintendent]. No load may be discharged without prior consent of [the
957 Superintendent]. [The Superintendent] may collect samples of each hauled load to ensure
958 compliance with applicable Standards. [The Superintendent] may require the industrial
959 waste hauler to provide a waste analysis of any load prior to discharge.
960

961 D. Industrial waste haulers must provide a waste-tracking form for every load. This
962 form shall include, at a minimum, the name and address of the industrial waste hauler,
963 permit number, truck identification, names and addresses of sources of waste, and
964 volume and characteristics of waste. The form shall identify the type of industry, known
965 or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
966

967 SECTION 4—INDIVIDUAL WASTEWATER DISCHARGE PERMITS [and GENERAL 968 PERMITS {optional}]

969
970 **[Note: The municipality must control SIUs through individual wastewater discharge [or general {optional}]**
971 **permits. Where provided by State law, the Control Authority may establish the authority to use a general**
972 **permit where certain conditions listed in Section 4.6 (40 CFR 403.8(f)(1)(iii)) are met.]**
973

974 4.1 Wastewater Analysis

975
976 When requested by [the Superintendent], a User must submit information on the nature and
977 characteristics of its wastewater within [()] days of the request. [The Superintendent] is
978 authorized to prepare a form for this purpose and may periodically require Users to update this
979 information.
980

981 4.2 Individual Wastewater Discharge Permit [and General Permit {optional}] Requirement

982
983 A. No Significant Industrial User shall discharge wastewater into the POTW without
984 first obtaining an individual wastewater discharge permit [or a general permit {optional}]
985 from [the Superintendent], except that a Significant Industrial User that has filed a timely
986 application pursuant to Section 4.3 of this ordinance may continue to discharge for the
987 time period specified therein.
988

989 B. [The Superintendent] may require other Users to obtain individual wastewater
 990 discharge permits [or general permits {optional}] as necessary to carry out the purposes of
 991 this ordinance.

992
 993 C. Any violation of the terms and conditions of an individual wastewater discharge
 994 permit [or a general permit {optional}] shall be deemed a violation of this ordinance and
 995 subjects the wastewater discharge permittee to the sanctions set out in Sections 10
 996 through 12 of this ordinance. Obtaining an individual wastewater discharge permit [or a
 997 general permit {optional}] does not relieve a permittee of its obligation to comply with all
 998 Federal and State Pretreatment Standards or Requirements or with any other requirements
 999 of Federal, State, and local law.

1000
 1001 4.3 Individual Wastewater Discharge [and General {optional}] Permitting: Existing Connections
 1002

1003 Any User required to obtain an individual wastewater discharge permit [or a general permit
 1004 {optional}] who was discharging wastewater into the POTW prior to the effective date of this
 1005 ordinance and who wishes to continue such discharges in the future, shall, within [_____
 1006 (____)] days after said date, apply to [the Superintendent] for an individual wastewater discharge
 1007 permit [or a general permit {optional}] in accordance with Section 4.5 of this ordinance, and shall
 1008 not cause or allow discharges to the POTW to continue after [____ (____)] days of the
 1009 effective date of this ordinance except in accordance with an individual wastewater discharge
 1010 permit [or a general permit {optional}] issued by [the Superintendent].
 1011

1012 4.4 Individual Wastewater Discharge [and General {optional}] Permitting: New Connections
 1013

1014 Any User required to obtain an individual wastewater discharge permit [or a general permit
 1015 {optional}] who proposes to begin or recommence discharging into the POTW must obtain such
 1016 permit prior to the beginning or recommencing of such discharge. An application for this
 1017 individual wastewater discharge permit [or general permit {optional}], in accordance with Section
 1018 4.5 of this ordinance, must be filed at least [____ (____)] days prior to the date upon which
 1019 any discharge will begin or recommence.
 1020

1021 4.5 Individual Wastewater Discharge [and General {optional}] Permit Application Contents
 1022

1023 **[Note: This Section lists the information IUs must provide in their application for an individual wastewater**
 1024 **discharge permit or general permit (control mechanism). Permits may be individual wastewater discharge**
 1025 **permits or general permits (See Section 4.6) if allowed by the POTW (Control Authority). POTWs might**
 1026 **want to modify the type of information required in permit applications on the basis of the size and type of IU**
 1027 **and the type of permit (individual wastewater discharge permit vs. general permit.) The list of information to**
 1028 **be submitted in a permit application has been expanded in this version of the model ordinance to include the**
 1029 **new general permit application requirements (40 CFR 403.8(f)(1)(iii)(A)(2)) and to capture the baseline**
 1030 **monitoring report (BMR) information which was previously in Section 6.1B (40 CFR 403.12(b)(1)-(7)). The**
 1031 **BMR Section (6.1B) currently refers back to this (Section 4.5) regarding information that must be submitted**
 1032 **in the BMR.]**
 1033

1034 A. All Users required to obtain an individual wastewater discharge permit [or a general
 1035 permit {optional}] must submit a permit application. Users that are eligible may request a

- 1036 general permit under Section 4.6. [The Superintendent] may require Users to submit all
1037 or some of the following information as part of a permit application:
1038
- 1039 (1) Identifying Information.
 - 1040 a. The name and address of the facility, including the name of the operator and
1041 owner.
 - 1042 b. Contact information, description of activities, facilities, and plant production
1043 processes on the premises;
1044
 - 1045 (2) Environmental Permits. A list of any environmental control permits held by
1046 or for the facility.
1047
 - 1048 (3) Description of Operations.
 - 1049 a. A brief description of the nature, average rate of production (including each
1050 product produced by type, amount, processes, and rate of production), and
1051 standard industrial classifications of the operation(s) carried out by such User.
1052 This description should include a schematic process diagram, which indicates
1053 points of discharge to the POTW from the regulated processes.
 - 1054 b. Types of wastes generated, and a list of all raw materials and chemicals used
1055 or stored at the facility which are, or could accidentally or intentionally be,
1056 discharged to the POTW;
 - 1057 c. Number and type of employees, hours of operation, and proposed or actual
1058 hours of operation;
 - 1059 d. Type and amount of raw materials processed (average and maximum per day);
 - 1060 e. Site plans, floor plans, mechanical and plumbing plans, and details to show all
1061 sewers, floor drains, and appurtenances by size, location, and elevation, and
1062 all points of discharge;
1063
 - 1064 (4) Time and duration of discharges;
1065
 - 1066 (5) The location for monitoring all wastes covered by the permit;
1067
 - 1068 (6) Flow Measurement. Information showing the measured average daily and
1069 maximum daily flow, in gallons per day, to the POTW from regulated process
1070 streams and other streams, as necessary, to allow use of the combined
1071 wastestream formula set out in Section 2.2C (40 CFR 403.6(e)).
1072
 - 1073 (7) Measurement of Pollutants.
 - 1074 a. The categorical Pretreatment Standards applicable to each regulated process
1075 and any new categorically regulated processes for Existing Sources.
 - 1076 b. The results of sampling and analysis identifying the nature and concentration,
1077 and/or mass, where required by the Standard or by [the Superintendent], of
1078 regulated pollutants in the discharge from each regulated process.
 - 1079 c. Instantaneous, Daily Maximum, and long-term average concentrations, or
1080 mass, where required, shall be reported.

- 1081 d. The sample shall be representative of daily operations and shall be analyzed in
 1082 accordance with procedures set out in Section 6.10 of this ordinance. Where
 1083 the Standard requires compliance with a BMP or pollution prevention
 1084 alternative, the User shall submit documentation as required by the
 1085 [Superintendent] or the applicable Standards to determine compliance with the
 1086 Standard.
 1087 e. Sampling must be performed in accordance with procedures set out in Section
 1088 6.11 of this ordinance.

1090 (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring
 1091 waiver) for a pollutant neither present nor expected to be present in the discharge
 1092 based on Section 6.4 B [40 CFR 403.12(e)(2)]. **{Optional} [Note: This provision is
 1093 required only if the municipality has incorporated Section 6.4B into its ordinance.]**

1095 (9) Any request to be covered by a general permit based on Section 4.6. **{Optional}**
 1096 **[Note: This provision is only required if the municipality has incorporated Section 4.6 into
 1097 its ordinance.]**

1098
 1099 (10) Any other information as may be deemed necessary by [the Superintendent]
 1100 to evaluate the permit application.

1101
 1102 B. Incomplete or inaccurate applications will not be processed and will be returned to
 1103 the User for revision.

1104
 1105 4.6 Wastewater Discharge Permitting: General Permits **{Optional}**

1106
 1107 [Note: The option to issue general permits in lieu of individual permits is available only if
 1108 authorized under State law. In such cases, State law may include additional general permit
 1109 requirements. See 40 CFR 403.8(f)(1)(iii)(A)]

1110
 1111 A. At the discretion of the [Superintendent], the [Superintendent] may use general
 1112 permits to control SIU discharges to the POTW if the following conditions are met. All
 1113 facilities to be covered by a general permit must:

- 1114 (1) Involve the same or substantially similar types of operations;
 1115 (2) Discharge the same types of wastes;
 1116 (3) Require the same effluent limitations;
 1117 (4) Require the same or similar monitoring; and
 1118 (5) In the opinion of the [Superintendent], are more appropriately controlled
 1119 under a general permit than under individual wastewater discharge permits.

1120
 1121 B. To be covered by the general permit, the SIU must file a written request for coverage
 1122 that identifies its contact information, production processes, the types of wastes
 1123 generated, the location for monitoring all wastes covered by the general permit, any
 1124 requests in accordance with Section 6.4 B for a monitoring waiver for a pollutant neither
 1125 present nor expected to be present in the Discharge, and any other information the POTW
 1126 deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be
 1127 present in the discharge is not effective in the general permit until after the

1128 [Superintendent] has provided written notice to the SIU that such a waiver request has
1129 been granted in accordance with Section 6.4B.

1130
1131 C. The [Superintendent] will retain a copy of the general permit, documentation to
1132 support the POTW's determination that a specific SIU meets the criteria in Section
1133 4.6A(1) to (5) and applicable State regulations, and a copy of the User's written request
1134 for coverage for three (3) years after the expiration of the general permit. [Note: See 40
1135 CFR 403.8(f)(1)(iii)(A)(1) through (5).]

1136
1137 D. The [Superintendent] may not control an SIU through a general permit where the
1138 facility is subject to production-based categorical Pretreatment Standards or categorical
1139 Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs
1140 whose limits are based on the Combined Wastestream Formula (Section 2.2C) or
1141 Net/Gross calculations (Section 2.2 D). [Note: See 40 CFR 403.6(e) and 40 CFR 403.15]

1142
1143 4.7 Application Signatories and Certifications

1144
1145 A. All wastewater discharge permit applications, User reports and certification
1146 statements must be signed by an Authorized Representative of the User and contain the
1147 certification statement in Section 6.14 A. [Note: Definition of Authorized Representative has
1148 been revised, see definition at Section 1.4 C]

1149
1150 B. If the designation of an Authorized Representative is no longer accurate because a
1151 different individual or position has responsibility for the overall operation of the facility
1152 or overall responsibility for environmental matters for the company, a new written
1153 authorization satisfying the requirements of this Section must be submitted to [the
1154 Superintendent] prior to or together with any reports to be signed by an Authorized
1155 Representative.

1156
1157 {Optional} [Note: The following optional provision is required if the municipality has incorporated Section
1158 1.4GG(3) into its ordinance].

1159
1160 C. A facility determined to be a Non-Significant Categorical Industrial User by [the
1161 Superintendent] pursuant to 1.4 GG(3) must annually submit the signed certification
1162 statement in Section 6.14 B. [Note: See 40 CFR 403.3(v)(2)]

1163
1164 4.8 Individual Wastewater Discharge [and General {optional}] Permit Decisions

1165
1166 [The Superintendent] will evaluate the data furnished by the User and may require additional
1167 information. Within [____ (____)] days of receipt of a complete permit application, [the
1168 Superintendent] will determine whether to issue an individual wastewater discharge permit [or a
1169 general permit {optional}]. [The Superintendent] may deny any application for an individual
1170 wastewater discharge permit [or a general permit {optional}].

1171

1172 SECTION 5—INDIVIDUAL WASTEWATER DISCHARGE [AND GENERAL {optional}]
 1173 PERMIT ISSUANCE

1174

1175 5.1 Individual Wastewater Discharge [and General {optional}] Permit Duration

1176

1177 An individual wastewater discharge permit [or a general permit {optional}] shall be issued for a
 1178 specified time period, not to exceed five (5) years from the effective date of the permit. An
 1179 individual wastewater discharge permit [or a general permit {optional}] may be issued for a period
 1180 less than five (5) years, at the discretion of [the Superintendent]. Each individual wastewater
 1181 discharge permit [or a general permit {optional}] will indicate a specific date upon which it will
 1182 expire.

1183

1184 5.2 Individual Wastewater Discharge Permit [and General Permit {optional}] Contents

1185

1186 An individual wastewater discharge permit [or a general permit {optional}] shall include such
 1187 conditions as are deemed reasonably necessary by [the Superintendent] to prevent Pass Through
 1188 or Interference, protect the quality of the water body receiving the treatment plant's effluent,
 1189 protect worker health and safety, facilitate sludge management and disposal, and protect against
 1190 damage to the POTW.

1191

1192 A. Individual wastewater discharge permits [and general permits {optional}] must
 1193 contain:

1194

1195 (1) A statement that indicates the wastewater discharge permit issuance date,
 1196 expiration date and effective date; [Note: See Section 5.1.]

1197

1198 (2) A statement that the wastewater discharge permit is nontransferable without
 1199 prior notification to [the City] in accordance with Section 5.5 of this ordinance,
 1200 and provisions for furnishing the new owner or operator with a copy of the
 1201 existing wastewater discharge permit;

1202

1203 (3) Effluent limits, including Best Management Practices, based on applicable
 1204 Pretreatment Standards; [Note: Required Streamlining Rule Change]

1205

1206 (4) Self monitoring, sampling, reporting, notification, and record-keeping
 1207 requirements. These requirements shall include an identification of pollutants (or
 1208 best management practice) to be monitored, sampling location, sampling
 1209 frequency, and sample type based on Federal, State, and local law.

1210

1211 (5) The process for seeking a waiver from monitoring for a pollutant neither
 1212 present nor expected to be present in the Discharge in accordance with Section
 1213 6.4 B. {Optional} [Note: This provision is required only if the municipality has
 1214 incorporated Section 6.4B into its ordinance. Section 4.5A (8) includes an instruction to the
 1215 permittees to include requests for a new (or renewal of an existing) monitoring waiver for a
 1216 pollutant neither present nor expected to be present in the discharge. See 40 CFR
 1217 403.12(e)(2).]

1218

1219 (6) A statement of applicable civil and criminal penalties for violation of
1220 Pretreatment Standards and Requirements, and any applicable compliance
1221 schedule. Such schedule may not extend the time for compliance beyond that
1222 required by applicable Federal, State, or local law.

1223
1224 (7) Requirements to control Slug Discharge, if determined by the
1225 [Superintendent] to be necessary. *[Note: Required Streamlining Rule Change]*

1226
1227 (8) Any grant of the monitoring waiver by the [Superintendent] (Section 6.4 B)
1228 must be included as a condition in the User's permit [or other control
1229 mechanism]. **{Optional} [Note: This provision is required only if the municipality has**
1230 **incorporated Section 6.4B into its ordinance.]**

1231
1232 B. Individual wastewater discharge permits [or general permits **{optional}**] may contain,
1233 but need not be limited to, the following conditions:

1234
1235 (1) Limits on the average and/or maximum rate of discharge, time of discharge,
1236 and/or requirements for flow regulation and equalization;

1237
1238 (2) Requirements for the installation of pretreatment technology, pollution
1239 control, or construction of appropriate containment devices, designed to reduce,
1240 eliminate, or prevent the introduction of pollutants into the treatment works;

1241
1242 (3) Requirements for the development and implementation of spill control plans
1243 or other special conditions including management practices necessary to
1244 adequately prevent accidental, unanticipated, or nonroutine discharges;

1245
1246 (4) Development and implementation of waste minimization plans to reduce the
1247 amount of pollutants discharged to the POTW;

1248
1249 (5) The unit charge or schedule of User charges and fees for the management of
1250 the wastewater discharged to the POTW;

1251
1252 (6) Requirements for installation and maintenance of inspection and sampling
1253 facilities and equipment, including flow measurement devices;

1254
1255 (7) A statement that compliance with the individual wastewater discharge permit
1256 [or the general permit **{optional}**] does not relieve the permittee of responsibility
1257 for compliance with all applicable Federal and State Pretreatment Standards,
1258 including those which become effective during the term of the individual
1259 wastewater discharge permit [or the general permit **{optional}**]; and

1260
1261 (8) Other conditions as deemed appropriate by [the Superintendent] to ensure
1262 compliance with this ordinance, and State and Federal laws, rules, and
1263 regulations.

1264

1265 5.3 Permit Issuance Process { optional }

1266

1267 A. Public Notification. The [Superintendent] will publish [in an official government
1268 publication and/or newspaper(s) of general circulation that provides meaningful public
1269 notice with the jurisdiction(s) served by the POTW, or on a Web page], a notice to issue a
1270 pretreatment permit, at least [_____ (____) fill in number] days prior to issuance. The
1271 notice will indicate a location where the draft permit may be reviewed and an address
1272 where written comments may be submitted.

1273

1274 B. Permit Appeals. [The Superintendent] shall provide public notice of the issuance of
1275 an individual wastewater discharge permit [or a general permit {optional}]. Any person,
1276 including the User, may petition [the Superintendent] to reconsider the terms of an
1277 individual wastewater discharge permit [or a general permit {optional}] within [_____ (____)
1278 (____) fill in number] days of notice of its issuance.

1279

(1) Failure to submit a timely petition for review shall be deemed to be a waiver
1280 of the administrative appeal.
1281

1282

(2) In its petition, the appealing party must indicate the individual wastewater
1283 discharge permit [or a general permit {optional}] provisions objected to, the
1284 reasons for this objection, and the alternative condition, if any, it seeks to place in
1285 the individual wastewater discharge permit [or a general permit {optional}].
1286

1287

(3) The effectiveness of the individual wastewater discharge permit [or a general
1288 permit {optional}] shall not be stayed pending the appeal.
1289

1290

(4) If [the Superintendent] fails to act within [_____ (____)] days, a request for
1291 reconsideration shall be deemed to be denied. Decisions not to reconsider an
1292 individual wastewater discharge permit [or a general permit {optional}], not to
1293 issue an individual wastewater discharge permit [or a general permit {optional}], or
1294 not to modify an individual wastewater discharge permit [or a general permit
1295 {optional}] shall be considered final administrative actions for purposes of judicial
1296 review.
1297

1298

(5) Aggrieved parties seeking judicial review of the final administrative
1299 individual wastewater discharge permit [or general permit {optional}] decision
1300 must do so by filing a complaint with the [insert name of appropriate Court] for
1301 [proper jurisdiction] within [insert appropriate State Statute of Limitations].
1302

1303

1304 5.4 Permit Modification

1305

1306 A. [The Superintendent] may modify an individual wastewater discharge permit for good
1307 cause, including, but not limited to, the following reasons:

1308

(1) To incorporate any new or revised Federal, State, or local Pretreatment
1309 Standards or Requirements;
1310

- 1311
1312 (2) To address significant alterations or additions to the User’s operation,
1313 processes, or wastewater volume or character since the time of the individual
1314 wastewater discharge permit issuance;
1315
1316 (3) A change in the POTW that requires either a temporary or permanent
1317 reduction or elimination of the authorized discharge;
1318
1319 (4) Information indicating that the permitted discharge poses a threat to [the
1320 City’s] POTW, [City] personnel, or the receiving waters; [**Note: The Control**
1321 **Authority should consider threats to the POTW’s beneficial sludge use.**]
1322
1323 (5) Violation of any terms or conditions of the individual wastewater discharge
1324 permit;
1325
1326 (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater
1327 discharge permit application or in any required reporting;
1328
1329 (7) Revision of or a grant of variance from categorical Pretreatment Standards
1330 pursuant to 40 CFR 403.13;
1331
1332 (8) To correct typographical or other errors in the individual wastewater discharge
1333 permit; or
1334
1335 (9) To reflect a transfer of the facility ownership or operation to a new owner or
1336 operator where requested in accordance with Section 5.5.
1337
1338 **{Optional}[Note: The following provision is optional. The municipality may include a provision authorizing**
1339 **it to do the following.]**
1340
1341 B. [The Superintendent] may modify a general permit for good cause, including, but not
1342 limited to, the following reasons:
1343
1344 (1) To incorporate any new or revised Federal, State, or local Pretreatment
1345 Standards or Requirements;
1346
1347 (2) A change in the POTW that requires either a temporary or permanent
1348 reduction or elimination of the authorized discharge;
1349
1350 (3) To correct typographical or other errors in the individual wastewater discharge
1351 permit; or
1352
1353 (4) To reflect a transfer of the facility ownership or operation to a new owner or
1354 operator where requested in accordance with Section 5.5.
1355

1356 5.5 Individual Wastewater Discharge Permit [and General Permit { optional}] Transfer

1357
1358 Individual wastewater discharge permits [or coverage under general permits {optional}] may be
1359 transferred to a new owner or operator only if the permittee gives at least [_____ (____)] days
1360 advance notice to [the Superintendent] and [the Superintendent] approves the individual
1361 wastewater discharge permit [or the general permit coverage {optional}] transfer. The notice to
1362 [the Superintendent] must include a written certification by the new owner or operator which:

1363
1364 A. States that the new owner and/or operator has no immediate intent to change the
1365 facility's operations and processes;

1366
1367 B. Identifies the specific date on which the transfer is to occur; and

1368
1369 C. Acknowledges full responsibility for complying with the existing individual
1370 wastewater discharge permit [or general permit {optional}].

1371
1372 Failure to provide advance notice of a transfer renders the individual wastewater discharge
1373 permit [or coverage under the general permit {optional}] void as of the date of facility transfer.

1374
1375 5.6 Individual Wastewater Discharge Permit [and General Permit {optional}] Revocation

1376
1377 [The Superintendent] may revoke an individual wastewater discharge permit [or coverage under
1378 a general permit {optional}] for good cause, including, but not limited to, the following reasons:

1379
1380 A. Failure to notify [the Superintendent] of significant changes to the wastewater prior to
1381 the changed discharge;

1382
1383 B. Failure to provide prior notification to [the Superintendent] of changed conditions
1384 pursuant to Section 6.5 of this ordinance;

1385
1386 C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater
1387 discharge permit application;

1388
1389 D. Falsifying self-monitoring reports and certification statements;

1390
1391 E. Tampering with monitoring equipment;

1392
1393 F. Refusing to allow [the Superintendent] timely access to the facility premises and
1394 records;

1395
1396 G. Failure to meet effluent limitations;

1397
1398 H. Failure to pay fines;

1399
1400 I. Failure to pay sewer charges;

1401

- 1402 J. Failure to meet compliance schedules;
- 1403
- 1404 K. Failure to complete a wastewater survey or the wastewater discharge permit
- 1405 application;
- 1406
- 1407 L. Failure to provide advance notice of the transfer of business ownership of a permitted
- 1408 facility; or
- 1409
- 1410 M. Violation of any Pretreatment Standard or Requirement, or any terms of the
- 1411 wastewater discharge permit [or the general permit {optional}] or this ordinance.
- 1412

1413 Individual wastewater discharge permits [or coverage under general permits {optional}] shall be
1414 voidable upon cessation of operations or transfer of business ownership. All individual
1415 wastewater discharge permits [or general permits {optional}] issued to a User are void upon the
1416 issuance of a new individual wastewater discharge permit [or a general permit {optional}] to that
1417 User.

1418

1419 5.7 Individual Wastewater Discharge Permit [and General Permit {optional}] Reissuance

1420

1421 A User with an expiring individual wastewater discharge permit [or general permit {optional}]
1422 shall apply for individual wastewater discharge permit [or general permit {optional}] reissuance
1423 by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a
1424 minimum of [_____ (____)] days prior to the expiration of the User's existing individual
1425 wastewater discharge permit [or general permit {optional}].

1426

1427 5.8 Regulation of Waste Received from Other Jurisdictions

1428

1429 **[Note: The municipality must ensure that discharges received from entities outside its jurisdictional**
1430 **boundaries are regulated to the same extent as are discharges from within its jurisdictional boundaries. How**
1431 **a municipality regulates such discharges largely will be determined by what is allowed under its State law.**
1432 **The municipality must determine the extent of its authority under State law to regulate Users located outside**
1433 **its jurisdictional boundaries. If the municipality does not have the legal authority to issue enforceable**
1434 **permits directly to extrajurisdictional dischargers and cannot obtain this authority under State law, it should**
1435 **strongly consider entering into an agreement with the municipality in which the dischargers are located. The**
1436 **agreement would require that the contributing municipality either regulate the dischargers within its**
1437 **jurisdiction directly or allow the municipality (in which the POTW is located) to regulate such dischargers.**
1438 **Following is one possible means of regulating dischargers located outside the municipality's jurisdictional**
1439 **boundaries.]**

1440

- 1441 A. If another municipality, or User located within another municipality, contributes
- 1442 wastewater to the POTW, [the Superintendent] shall enter into an intermunicipal
- 1443 agreement with the contributing municipality.
- 1444

- 1445 B. Prior to entering into an agreement required by paragraph A, above, [the
- 1446 Superintendent] shall request the following information from the contributing
- 1447 municipality:
- 1448

- 1449 (1) A description of the quality and volume of wastewater discharged to the
1450 POTW by the contributing municipality;
1451
1452 (2) An inventory of all Users located within the contributing municipality that are
1453 discharging to the POTW; and
1454
1455 (3) Such other information as [the Superintendent] may deem necessary.
1456

1457 C. An intermunicipal agreement, as required by paragraph A, above, shall contain the
1458 following conditions:
1459

- 1460 (1) A requirement for the contributing municipality to adopt a sewer use
1461 ordinance which is at least as stringent as this ordinance and Local Limits,
1462 including required **Baseline Monitoring Reports (BMRs)** Best Management
1463 Practices (BMPs) which are at least as stringent as those set out in Section 2.4 of
1464 this ordinance. The requirement shall specify that such ordinance and limits must
1465 be revised as necessary to reflect changes made to [the City's] ordinance or Local
1466 Limits;
1467
1468 (2) A requirement for the contributing municipality to submit a revised User
1469 inventory on at least an annual basis;
1470
1471 (3) A provision specifying which pretreatment implementation activities,
1472 including individual wastewater discharge permit [or general permit **{optional}**]
1473 issuance, inspection and sampling, and enforcement, will be conducted by the
1474 contributing municipality; which of these activities will be conducted by [the
1475 Superintendent]; and which of these activities will be conducted jointly by the
1476 contributing municipality and [the Superintendent];
1477
1478 (4) A requirement for the contributing municipality to provide [the
1479 Superintendent] with access to all information that the contributing municipality
1480 obtains as part of its pretreatment activities;
1481
1482 (5) Limits on the nature, quality, and volume of the contributing municipality's
1483 wastewater at the point where it discharges to the POTW;
1484
1485 (6) Requirements for monitoring the contributing municipality's discharge;
1486
1487 (7) A provision ensuring [the Superintendent] access to the facilities of Users
1488 located within the contributing municipality's jurisdictional boundaries for the
1489 purpose of inspection, sampling, and any other duties deemed necessary by [the
1490 Superintendent]; and
1491
1492 (8) A provision specifying remedies available for breach of the terms of the
1493 intermunicipal agreement.
1494

1495 [Note: Where the contributing municipality has primary responsibility for permitting, compliance
1496 monitoring, or enforcement, the intermunicipal agreement should specify that the municipality (in which the
1497 POTW is located) has the right to take action to enforce the terms of the contributing municipality's
1498 ordinance or to impose and enforce Pretreatment Standards and Requirements directly against dischargers
1499 in the event the contributing jurisdiction is unable or unwilling to take such action.]

1500

1501 SECTION 6—REPORTING REQUIREMENTS

1502

1503 6.1 Baseline Monitoring Reports

1504

1505 [Note: Users that become subject to new or revised categorical Pretreatment Standards are required to
1506 comply with the following reporting requirements even if they have been designated as Non-Significant
1507 Categorical Industrial Users]

1508

1509 A. Within either one hundred eighty (180) days after the effective date of a categorical
1510 Pretreatment Standard, or the final administrative decision on a category determination
1511 under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users
1512 currently discharging to or scheduled to discharge to the POTW shall submit to [the
1513 Superintendent] a report which contains the information listed in paragraph B, below. At
1514 least ninety (90) days prior to commencement of their discharge, New Sources, and
1515 sources that become Categorical Industrial Users subsequent to the promulgation of an
1516 applicable categorical Standard, shall submit to [the Superintendent] a report which
1517 contains the information listed in paragraph B, below. A New Source shall report the
1518 method of pretreatment it intends to use to meet applicable categorical Standards. A New
1519 Source also shall give estimates of its anticipated flow and quantity of pollutants to be
1520 discharged.

1521

1522 B. Users described above shall submit the information set forth below.

1523

1524 (1) All information required in Section 4.5A (1) (a), Section 4.5A (2), Section
1525 4.5A (3) (a), and Section 4.5A (6). [Note: See 40 CFR 403.12(b)(1)-(7)]

1526

1527 (2) Measurement of pollutants.

1528 a. The User shall provide the information required in Section 4.5 A (7) (a)
1529 through (d).

1530 b. The User shall take a minimum of one representative sample to compile that
1531 data necessary to comply with the requirements of this paragraph.

1532 c. Samples should be taken immediately downstream from pretreatment facilities
1533 if such exist or immediately downstream from the regulated process if no
1534 pretreatment exists. If other wastewaters are mixed with the regulated
1535 wastewater prior to pretreatment the User should measure the flows and
1536 concentrations necessary to allow use of the combined wastestream formula in
1537 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards.
1538 Where an alternate concentration or mass limit has been calculated in
1539 accordance with 40 CFR 403.6(e) this adjusted limit along with supporting
1540 data shall be submitted to the Control Authority;

1541 d. Sampling and analysis shall be performed in accordance with Section 6.10;

- e. The [Superintendent] may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.4 C and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this ordinance and signed by an Authorized Representative as defined in Section 1.4C.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(4) of this ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to [the Superintendent] no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

1588
1589 D. In no event shall more than nine (9) months elapse between such progress reports to
1590 [the Superintendent].
1591

1592 6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

1593

1594 Within ninety (90) days following the date for final compliance with applicable categorical
1595 Pretreatment Standards, or in the case of a New Source following commencement of the
1596 introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and
1597 Requirements shall submit to [the Superintendent] a report containing the information described
1598 in Section 4.5A(6) and (7) and 6.1(B)(2) of this ordinance. For Users subject to equivalent mass
1599 or concentration limits established in accordance with the procedures in Section 2.2 [**Note: See 40**
1600 **CFR 403.6(c)**], this report shall contain a reasonable measure of the User's long-term production
1601 rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of
1602 allowable pollutant discharge per unit of production (or other measure of operation), this report
1603 shall include the User's actual production during the appropriate sampling period. All
1604 compliance reports must be signed and certified in accordance with Section 6.14 A of this
1605 ordinance. All sampling will be done in conformance with Section 6.11.
1606

1607 6.4 Periodic Compliance Reports

1608

1609 [Note: All SIUs are required to submit periodic compliance reports even if they have been
1610 designated a Non-Significant Categorical Industrial User under the provisions of Section 6.4 C.]
1611

1612 A. Except as specified in Section 6.4.C, all [Significant Industrial] Users must, at a
1613 frequency determined by [the Superintendent] submit no less than twice per year (June
1614 and December [or on dates specified]) reports indicating the nature, concentration of
1615 pollutants in the discharge which are limited by Pretreatment Standards and the measured
1616 or estimated average and maximum daily flows for the reporting period. In cases where
1617 the Pretreatment Standard requires compliance with a Best Management Practice (BMP)
1618 or pollution prevention alternative, the User must submit documentation required by [the
1619 Superintendent] or the Pretreatment Standard necessary to determine the compliance
1620 status of the User [**Note: Required Streamlining Rule Change**].
1621

1622 **{Optional} [Note: The following optional provision may be included in the local ordinances only if**
1623 **authorized under State law. Criteria for monitoring waivers must also include any criteria defined in**
1624 **applicable State law requirements.]**
1625

1626 B. The [City] may authorize an Industrial User subject to a categorical Pretreatment
1627 Standard to forego sampling of a pollutant regulated by a categorical Pretreatment
1628 Standard if the Industrial User has demonstrated through sampling and other technical
1629 factors that the pollutant is neither present nor expected to be present in the Discharge, or
1630 is present only at background levels from intake water and without any increase in the
1631 pollutant due to activities of the Industrial User. [see 40 CFR 403.12(e)(2)] This
1632 authorization is subject to the following conditions:
1633

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 4.5A(8).

(3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 A (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the [Superintendent] must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the [Superintendent] for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the User's permit by the [Superintendent], the Industrial User must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 6.4 A, or other more frequent monitoring requirements imposed by the [Superintendent], and notify the [Superintendent].

(9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

[{Optional} Note: The following optional provision may be included in the local ordinances only if authorized under State law. Criteria for reduced reporting must also include any criteria defined in applicable State law.]

1681
1682 C. The [City] may reduce the requirement for periodic compliance reports [see Section
1683 6.4 A (40 CFR 403.12(e)(1))] to a requirement to report no less frequently than once a
1684 year, unless required more frequently in the Pretreatment Standard or by the [EPA/State],
1685 where the Industrial User's total categorical wastewater flow does not exceed any of the
1686 following:

1687
1688 (1) [insert POTW's value for 0.01 percent of the POTW's design dry-weather
1689 *hydraulic capacity* of the POTW], or five thousand (5,000) gallons per day,
1690 whichever is smaller, as measured by a continuous effluent flow monitoring
1691 device unless the Industrial User discharges in batches]

1692
1693 (2) [insert POTW's value for 0.01 percent of the design dry-weather *organic*
1694 *treatment capacity* of the POTW]; and

1695
1696 (3) [Insert POTW's value for 0.01 percent of the maximum allowable headworks
1697 loading for any pollutant regulated by the applicable categorical Pretreatment
1698 Standard for which approved Local Limits were developed in accordance with
1699 Section 2.4 of this ordinance.] [**Note: For example, if the POTW's maximum allowable
1700 headworks loading for copper is 5 pounds, then 0.01 percent would be 0.0005 pounds; the
1701 POTW would need to do this calculation for each pollutant for which it has approved Local
1702 Limits.**]

1703
1704 Reduced reporting is not available to Industrial Users that have in the last two (2) years
1705 been in Significant Noncompliance, as defined in Section 9 of this ordinance. In
1706 addition, reduced reporting is not available to an Industrial User with daily flow rates,
1707 production levels, or pollutant levels that vary so significantly that, in the opinion of the
1708 [Superintendent], decreasing the reporting requirement for this Industrial User would
1709 result in data that are not representative of conditions occurring during the reporting
1710 period.

1711
1712 D. All periodic compliance reports must be signed and certified in accordance with
1713 Section 6.14 A of this ordinance.

1714
1715 E. All wastewater samples must be representative of the User's discharge. Wastewater
1716 monitoring and flow measurement facilities shall be properly operated, kept clean, and
1717 maintained in good working order at all times. The failure of a User to keep its
1718 monitoring facility in good working order shall not be grounds for the User to claim that
1719 sample results are unrepresentative of its discharge. [*Note: This paragraph supports the*
1720 *Required Streamlining Rule Changes.*]

1721
1722 F. If a User subject to the reporting requirement in this section monitors any regulated
1723 pollutant at the appropriate sampling location more frequently than required by [the
1724 Superintendent], using the procedures prescribed in Section 6.11 of this ordinance, the
1725 results of this monitoring shall be included in the report. [**Note: See 40 CFR 403.12(g)(6)**]
1726

1727 {Optional} [Note: The following optional provision may be included in the local ordinances only where the
 1728 POTW has been authorized by EPA to accept electronic reports from its IUs and State law authorizes it.]
 1729

1730 G. Users that send electronic (digital) documents to [the City] to satisfy the requirements
 1731 of this Section must: [specify POTW requirements for IU submittal of electronic reports
 1732 here. [Note: POTWs that choose to receive electronic documents must satisfy the requirements of
 1733 40 CFR Part 3—(Electronic reporting)]
 1734

1735 6.5 Reports of Changed Conditions 1736

1737 Each User must notify [the Superintendent] of any significant changes to the User's operations or
 1738 system which might alter the nature, quality, or volume of its wastewater at least [_____
 1739 (____)] days before the change.
 1740

1741 A. [The Superintendent] may require the User to submit such information as may be
 1742 deemed necessary to evaluate the changed condition, including the submission of a
 1743 wastewater discharge permit application under Section 4.5 of this ordinance.
 1744

1745 B. [The Superintendent] may issue an individual wastewater discharge permit [or a
 1746 general permit {optional}] under Section 5.7 of this ordinance or modify an existing
 1747 wastewater discharge permit [or a general permit {optional}] under Section 5.4 of this
 1748 ordinance in response to changed conditions or anticipated changed conditions.
 1749

1750 6.6 Reports of Potential Problems 1751

1752 A. In the case of any discharge, including, but not limited to, accidental discharges,
 1753 discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug
 1754 Discharge or Slug Load, that might cause potential problems for the POTW, the User
 1755 shall immediately telephone and notify [the Superintendent] of the incident. This
 1756 notification shall include the location of the discharge, type of waste, concentration and
 1757 volume, if known, and corrective actions taken by the User.
 1758

1759 B. Within five (5) days following such discharge, the User shall, unless waived by [the
 1760 Superintendent], submit a detailed written report describing the cause(s) of the discharge
 1761 and the measures to be taken by the User to prevent similar future occurrences. Such
 1762 notification shall not relieve the User of any expense, loss, damage, or other liability
 1763 which might be incurred as a result of damage to the POTW, natural resources, or any
 1764 other damage to person or property; nor shall such notification relieve the User of any
 1765 fines, penalties, or other liability which may be imposed pursuant to this ordinance.
 1766 {Optional} [Note: This report is not required under the General Pretreatment Regulations and,
 1767 therefore, is optional.]
 1768

1769 C. A notice shall be permanently posted on the User's bulletin board or other prominent
 1770 place advising employees who to call in the event of a discharge described in paragraph
 1771 A, above. Employers shall ensure that all employees, who could cause such a discharge
 1772 to occur, are advised of the emergency notification procedure.
 1773

1774 D. Significant Industrial Users are required to notify the [Superintendent] immediately of
1775 any changes at its facility affecting the potential for a Slug Discharge. *[Note: Required*
1776 *Streamlining Rule Change]*

1777
1778 6.7 Reports from Unpermitted Users

1779
1780 All Users not required to obtain an individual wastewater discharge permit [or general permit
1781 {**optional**}] shall provide appropriate reports to [the Superintendent] as [the Superintendent] may
1782 require.

1783
1784 6.8 Notice of Violation/Repeat Sampling and Reporting

1785
1786 If sampling performed by a User indicates a violation, the User must notify [the Superintendent]
1787 within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the
1788 sampling and analysis and submit the results of the repeat analysis to [the Superintendent] within
1789 thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not
1790 required if [the City] performs sampling at the User's facility at least once a month, or if [the
1791 City] performs sampling at the User between the time when the initial sampling was conducted
1792 and the time when the User or [the City] receives the results of this sampling, or if [the City] has
1793 performed the sampling and analysis in lieu of the Industrial User.

1794
1795 *[Note: Required Streamlining Rule Change needed if POTW performs sampling in lieu of the Industrial Users.*
1796 *If the City performed the sampling and analysis in lieu of the Industrial User, the City will perform the*
1797 *repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the*
1798 *repeat sampling and analysis. See 40 CFR 403.12(g) (2).]*

1799
1800 6.9 Notification of the Discharge of Hazardous Waste

1801
1802 **[Note: The municipality may choose to prohibit the discharge of hazardous wastes.]**

1803
1804 A. Any User who commences the discharge of hazardous waste shall notify the POTW,
1805 the EPA Regional Waste Management Division Director, and State hazardous waste
1806 authorities, in writing, of any discharge into the POTW of a substance which, if otherwise
1807 disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must
1808 include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA
1809 hazardous waste number, and the type of discharge (continuous, batch, or other). If the
1810 User discharges more than one hundred (100) kilograms of such waste per calendar
1811 month to the POTW, the notification also shall contain the following information to the
1812 extent such information is known and readily available to the User: an identification of
1813 the hazardous constituents contained in the wastes, an estimation of the mass and
1814 concentration of such constituents in the wastestream discharged during that calendar
1815 month, and an estimation of the mass of constituents in the wastestream expected to be
1816 discharged during the following twelve (12) months. All notifications must take place no
1817 later than one hundred and eighty (180) days after the discharge commences. Any
1818 notification under this paragraph need be submitted only once for each hazardous waste
1819 discharged. However, notifications of changed conditions must be submitted under
1820 Section 6.5 of this ordinance. The notification requirement in this Section does not apply

1821 to pollutants already reported by Users subject to categorical Pretreatment Standards
1822 under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.

1823
1824 B. Dischargers are exempt from the requirements of paragraph A, above, during a
1825 calendar month in which they discharge no more than fifteen (15) kilograms of
1826 hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR
1827 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute
1828 hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as
1829 specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.
1830 Subsequent months during which the User discharges more than such quantities of any
1831 hazardous waste do not require additional notification.

1832
1833 C. In the case of any new regulations under section 3001 of RCRA identifying additional
1834 characteristics of hazardous waste or listing any additional substance as a hazardous
1835 waste, the User must notify [the Superintendent], the EPA Regional Waste Management
1836 Waste Division Director, and State hazardous waste authorities of the discharge of such
1837 substance within ninety (90) days of the effective date of such regulations.

1838
1839 D. In the case of any notification made under this Section, the User shall certify that it
1840 has a program in place to reduce the volume and toxicity of hazardous wastes generated
1841 to the degree it has determined to be economically practical.

1842
1843 E. This provision does not create a right to discharge any substance not otherwise
1844 permitted to be discharged by this ordinance, a permit issued thereunder, or any
1845 applicable Federal or State law.

1846 1847 6.10 Analytical Requirements

1848
1849 All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater
1850 discharge permit application or report shall be performed in accordance with the techniques
1851 prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an
1852 applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or
1853 analytical techniques for the pollutant in question, or where the EPA determines that the Part 136
1854 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and
1855 analyses shall be performed by using validated analytical methods or any other applicable
1856 sampling and analytical procedures, including procedures suggested by the [Superintendent] or
1857 other parties approved by EPA.

1858 1859 6.11 Sample Collection

1860
1861 Samples collected to satisfy reporting requirements must be based on data obtained through
1862 appropriate sampling and analysis performed during the period covered by the report, based on
1863 data that is representative of conditions occurring during the reporting period. **[Note: The Control
1864 Authority is require to indicate the frequency of monitoring necessary to assess and assure compliance by the
1865 User with applicable Pretreatment Standards and Requirements.]**
1866

1867 [Note: In the Streamlining Rule changes, Paragraphs A and B below have been deleted from 40 CFR
1868 403.12(b)(5) and added to 40 CFR 403.12(g)(3). The original paragraphs relate to Categorical Industrial User
1869 monitoring reports only while the relocated paragraphs apply to all SIU monitoring.]

1870
1871 A. Except as indicated in Section B and C below, the User must collect wastewater
1872 samples using 24-hour flow-proportional composite sampling techniques, unless
1873 time-proportional composite sampling or grab sampling is authorized by [the
1874 Superintendent]. Where time-proportional composite sampling or grab sampling is
1875 authorized by [the City], the samples must be representative of the discharge. Using
1876 protocols (including appropriate preservation) specified in 40 CFR Part 136 and
1877 appropriate EPA guidance, multiple grab samples collected during a 24-hour period may
1878 be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the
1879 samples may be composited in the laboratory or in the field; for volatile organics and oil
1880 and grease, the samples may be composited in the laboratory. Composite samples for
1881 other parameters unaffected by the compositing procedures as documented in approved
1882 EPA methodologies may be authorized by [the City], as appropriate. In addition, grab
1883 samples may be required to show compliance with Instantaneous Limits. [Note: Required
1884 Streamlining Rule Change. See 40 CFR 403.12(g)(3)]

1885
1886 B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and
1887 volatile organic compounds must be obtained using grab collection techniques.

1888
1889 C. For sampling required in support of baseline monitoring and 90-day compliance
1890 reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four
1891 (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and
1892 volatile organic compounds for facilities for which historical sampling data do not exist;
1893 for facilities for which historical sampling data are available, [the Superintendent] may
1894 authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR
1895 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab
1896 samples necessary to assess and assure compliance by with applicable Pretreatment
1897 Standards and Requirements. [Note: Required Streamlining Rule Change, see 40 CFR
1898 403.12(g)(4).]

1899
1900 6.12 Date of Receipt of Reports

1901
1902 Written reports will be deemed to have been submitted on the date postmarked. For reports,
1903 which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal
1904 Service, the date of receipt of the report shall govern.

1905
1906 6.13 Recordkeeping

1907
1908 Users subject to the reporting requirements of this ordinance shall retain, and make available for
1909 inspection and copying, all records of information obtained pursuant to any monitoring activities
1910 required by this ordinance, any additional records of information obtained pursuant to
1911 monitoring activities undertaken by the User independent of such requirements, and
1912 documentation associated with Best Management Practices established under Section 2.4 C.
1913 Records shall include the date, exact place, method, and time of sampling, and the name of the

1914 person(s) taking the samples; the dates analyses were performed; who performed the analyses;
 1915 the analytical techniques or methods used; and the results of such analyses. These records shall
 1916 remain available for a period of at least three (3) years. This period shall be automatically
 1917 extended for the duration of any litigation concerning the User or [the City], or where the User
 1918 has been specifically notified of a longer retention period by [the Superintendent]. *[Note: The*
 1919 *recordkeeping requirements for BMPs are a Required Streamlining Rule Change.]*

1920

1921 6.14 Certification Statements

1922

1923 **[Note: This Section has been modified to consolidate the certification statements previously listed elsewhere.**
 1924 **Section 4.7A&C—Certification of all wastewater discharge permit applications, and User reports and annual**
 1925 **certification of NSCIUs, Section 6.4B(4)—“initial” certification for pollutants not present, Section 6.4B (7)—**
 1926 **Certification of periodic reports of pollutants not present, Section 6.4D—Certification of all periodic**
 1927 **compliance reports.]**

1928

1929 **[Note: 40 CFR 403.12 (l) requires that the certification which follows be provided for IU Baseline Monitoring**
 1930 **Reports (BMRs) (403.12(b), IU Reports on Compliance with Categorical Pretreatment Standards Deadline**
 1931 **(90-day compliance report) (403.12(d), CIU Periodic Reports on Continued Compliance (403.12(e)) and the**
 1932 **initial request from CIUs to forego Monitoring for Pollutants Not Present. In addition to CIUs, the model**
 1933 **ordinance requires this certification statement for all wastewater discharge permit applications and User**
 1934 **reports. Furthermore, the POTW should require this certification statement for all noncategorical SIU**
 1935 **compliance reports.]**

1936

1937 A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—
 1938 The following certification statement is required to be signed and submitted by Users
 1939 submitting permit applications in accordance with Section 4.7; Users submitting baseline
 1940 monitoring reports under Section 6.1 B (5) **[Note: See 40 CFR 403.12 (l)]**; Users submitting
 1941 reports on compliance with the categorical Pretreatment Standard deadlines under Section
 1942 6.3 **[Note: See 40 CFR 403.12(d)]**; Users submitting periodic compliance reports required by
 1943 Section 6.4 A–D **[Note: See 40 CFR 403.12(e) and (h)]**, and Users submitting an initial request
 1944 to forego sampling of a pollutant on the basis of Section 6.4B(4)**[Note: See 40 CFR**
 1945 **403.12(e)(2)(iii)]**. The following certification statement must be signed by an Authorized
 1946 Representative as defined in Section 1.4 C:

1947

1948 I certify under penalty of law that this document and all attachments were
 1949 prepared under my direction or supervision in accordance with a system designed
 1950 to assure that qualified personnel properly gather and evaluate the information
 1951 submitted. Based on my inquiry of the person or persons who manage the system,
 1952 or those persons directly responsible for gathering the information, the
 1953 information submitted is, to the best of my knowledge and belief, true, accurate,
 1954 and complete. I am aware that there are significant penalties for submitting false
 1955 information, including the possibility of fine and imprisonment for knowing
 1956 violations.

1957

1958 **{Optional} [Note: The following optional provision is required if the municipality has incorporated Section**
 1959 **1.4 GG(3) into its ordinance].**

1960

1961 B. Annual Certification for Non-Significant Categorical Industrial Users—A facility
 1962 determined to be a Non-Significant Categorical Industrial User by [the Superintendent]

1963 pursuant to 1.4 GG(3) and 4.7 C [Note: See 40 CFR 403.3(v)(2)] must annually submit the
1964 following certification statement signed in accordance with the signatory requirements in
1965 1.4 C [Note: See 40 CFR 403.120(I)]. This certification must accompany an alternative report
1966 required by [the Superintendent]:

1967
1968 Based on my inquiry of the person or persons directly responsible for
1969 managing compliance with the categorical Pretreatment Standards under
1970 40 CFR _____, I certify that, to the best of my knowledge and belief that
1971 during the period from _____, _____ to _____, _____
1972 [months, days, year]:

1973
1974 (a) The facility described as _____
1975 [facility name] met the definition of a Non-Significant Categorical
1976 Industrial User as described in 1.4 GG (3); [Note: See 40 CFR 403.3(v)(2)]

1977
1978 (b) The facility complied with all applicable Pretreatment Standards and
1979 requirements during this reporting period; and (c) the facility never
1980 discharged more than 100 gallons of total categorical wastewater on any
1981 given day during this reporting period.

1982
1983 This compliance certification is based on the following information.

1984 _____
1985 _____
1986 _____
1987 _____

1988
1989 {Optional} [Note: The following optional provision is required if the municipality has incorporated Section
1990 6.4 B into its ordinance].

1991
1992 C. Certification of Pollutants Not Present

1993
1994 Users that have an approved monitoring waiver based on Section 6.4 B must certify on
1995 each report with the following statement that there has been no increase in the pollutant
1996 in its wastestream due to activities of the User. [Note: See 40 CFR 403.12(e)(2)(v)]

1997
1998 Based on my inquiry of the person or persons directly responsible for managing
1999 compliance with the Pretreatment Standard for 40 CFR _____ [specify
2000 applicable National Pretreatment Standard part(s)], I certify that, to the best of my
2001 knowledge and belief, there has been no increase in the level of _____ [list
2002 pollutant(s)] in the wastewaters due to the activities at the facility since filing of
2003 the last periodic report under Section 6.4.A.

2004
2005

2006 SECTION 7—COMPLIANCE MONITORING

2007

2008 7.1 Right of Entry: Inspection and Sampling

2009

2010 [The Superintendent] shall have the right to enter the premises of any User to determine whether
2011 the User is complying with all requirements of this ordinance and any individual wastewater
2012 discharge permit [or general permit {optional}] or order issued hereunder. Users shall allow [the
2013 Superintendent] ready access to all parts of the premises for the purposes of inspection,
2014 sampling, records examination and copying, and the performance of any additional duties.

2015

2016 A. Where a User has security measures in force which require proper identification and
2017 clearance before entry into its premises, the User shall make necessary arrangements with
2018 its security guards so that, upon presentation of suitable identification, [the
2019 Superintendent] shall be permitted to enter without delay for the purposes of performing
2020 specific responsibilities.

2021

2022 B. [The Superintendent] shall have the right to set up on the User's property, or require
2023 installation of, such devices as are necessary to conduct sampling and/or metering of the
2024 User's operations.

2025

2026 C. [The Superintendent] may require the User to install monitoring equipment as
2027 necessary. The facility's sampling and monitoring equipment shall be maintained at all
2028 times in a safe and proper operating condition by the User at its own expense. All
2029 devices used to measure wastewater flow and quality shall be calibrated [insert desired
2030 frequency] to ensure their accuracy.

2031

2032 D. Any temporary or permanent obstruction to safe and easy access to the facility to be
2033 inspected and/or sampled shall be promptly removed by the User at the written or verbal
2034 request of [the Superintendent] and shall not be replaced. The costs of clearing such
2035 access shall be born by the User.

2036

2037 E. Unreasonable delays in allowing [the Superintendent] access to the User's premises
2038 shall be a violation of this ordinance.

2039

2040 **[Note: POTWs should consider situations when the monitoring facility is constructed in the public right-of-**
2041 **way or easement, in an unobstructed location. The ordinance should indicate that the location of the**
2042 **monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling**
2043 **and preparation of samples and analysis and whether constructed on public or private property, the**
2044 **monitoring facilities should be provided in accordance with the [Supervisor's] requirements and all**
2045 **applicable local construction standards and specifications, and such facilities shall be constructed and**
2046 **maintained in such manner so as to enable the [Supervisor] to perform independent monitoring activities.]**

2047

2048

2049 7.2 Search Warrants

2050
2051 **[Note: The specific process by which search warrants may be issued will vary from City to City. The**
2052 **procedure will likely be a matter of State law. This provision will need to be adjusted based on the particular**
2053 **procedure followed in that State and City.]**

2054
2055 If [the Superintendent] has been refused access to a building, structure, or property, or any part
2056 thereof, and is able to demonstrate probable cause to believe that there may be a violation of this
2057 ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and
2058 sampling program of [the City] designed to verify compliance with this ordinance or any permit
2059 or order issued hereunder, or to protect the overall public health, safety and welfare of the
2060 community, [the Superintendent] may seek issuance of a search warrant from the [insert name of
2061 appropriate Court] of [the City or State].

2062
2063 SECTION 8—CONFIDENTIAL INFORMATION

2064
2065 Information and data on a User obtained from reports, surveys, wastewater discharge permit
2066 applications, individual wastewater discharge permits, [general permits, {optional}] and
2067 monitoring programs, and from [the Superintendent’s] inspection and sampling activities, shall
2068 be available to the public without restriction, unless the User specifically requests, and is able to
2069 demonstrate to the satisfaction of [the Superintendent], that the release of such information
2070 would divulge information, processes, or methods of production entitled to protection as trade
2071 secrets under applicable State law. Any such request must be asserted at the time of submission
2072 of the information or data. When requested and demonstrated by the User furnishing a report
2073 that such information should be held confidential, the portions of a report which might disclose
2074 trade secrets or secret processes shall not be made available for inspection by the public, but
2075 shall be made available immediately upon request to governmental agencies for uses related to
2076 the NPDES program or pretreatment program, and in enforcement proceedings involving the
2077 person furnishing the report. Wastewater constituents and characteristics and other effluent data,
2078 as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be
2079 available to the public without restriction.

2080
2081 SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

2082
2083 **[Note: Unless the optional (underlined) revisions to the SNC provisions have been made by the State, the**
2084 **POTW must retain the previous requirements. The optional revisions include the public notice in a**
2085 **newspaper of general circulation that provides meaningful public notice within the jurisdiction, publishing**
2086 **SIUs and other IUs that have adversely affected the POTW, and that IU reports submitted more than 45 days**
2087 **late constitutes SNC. See 40 CFR 403.8(f) (2)(viii)(A-C).]**

2088
2089 [The Superintendent] shall publish annually, in a newspaper of general circulation that provides
2090 meaningful public notice within the jurisdictions served by [the POTW], a list of the Users
2091 which, at any time during the previous twelve (12) months, were in Significant Noncompliance
2092 with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance
2093 shall be applicable to all Significant Industrial Users (or any other Industrial User that violates
2094 paragraphs (C), (D) or (H) of this Section) and shall mean:

- 2096 A. Chronic violations of wastewater discharge limits, defined here as those in which
 2097 sixty-six percent (66%) or more of all the measurements taken for the same pollutant
 2098 parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric
 2099 Pretreatment Standard or Requirement, including Instantaneous Limits as defined in
 2100 Section 2; *[Note: Required Streamlining Rule Change, see 40 CFR 403.3(l)]*
 2101
- 2102 B. Technical Review Criteria (TRC) violations, defined here as those in which
 2103 thirty-three percent (33%) or more of wastewater measurements taken for each pollutant
 2104 parameter during a six- (6-) month period equals or exceeds the product of the numeric
 2105 Pretreatment Standard or Requirement including Instantaneous Limits, as defined by
 2106 Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease,
 2107 and 1.2 for all other pollutants except pH); *[Note: Required Streamlining Rule Change, see 40*
 2108 *CFR 403.3(l)]*
 2109
- 2110 C. Any other violation of a Pretreatment Standard or Requirement as defined by Section
 2111 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that
 2112 [the Superintendent] determines has caused, alone or in combination with other
 2113 discharges, Interference or Pass Through, including endangering the health of POTW
 2114 personnel or the general public; *[Required Streamlining Rule Change, see 40 CFR 403.3(l)]*
 2115
- 2116 D. Any discharge of a pollutant that has caused imminent endangerment to the public or
 2117 to the environment, or has resulted in [the Superintendent's] exercise of its emergency
 2118 authority to halt or prevent such a discharge;
 2119
- 2120 E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule
 2121 milestone contained in an individual wastewater discharge permit [or a general permit
 2122 {**optional**}] or enforcement order for starting construction, completing construction, or
 2123 attaining final compliance;
 2124
- 2125 F. Failure to provide within forty-five (45) days after the due date, any required reports,
 2126 including baseline monitoring reports, reports on compliance with categorical
 2127 Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on
 2128 compliance with compliance schedules;
 2129
- 2130 G. Failure to accurately report noncompliance; or
 2131
- 2132 H. Any other violation(s), which may include a violation of Best Management Practices,
 2133 which [the Superintendent] determines will adversely affect the operation or
 2134 implementation of the local pretreatment program.
 2135

2136 SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

2137
 2138 **[Note: The municipality must refer to State law to see if the remedies listed in Sections 10, 11, and 12 are**
 2139 **allowable. The municipality must have the authority to seek injunctive relief for noncompliance and to seek**
 2140 **or assess penalties of at least \$1,000 a day for each violation of Pretreatment Standards or Requirements by**
 2141 **Industrial Users.]**
 2142

2143 10.1 Notification of Violation

2144
2145 When [the Superintendent] finds that a User has violated, or continues to violate, any provision
2146 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or
2147 order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent]
2148 may serve upon that User a written Notice of Violation. Within [()] days of the
2149 receipt of such notice, an explanation of the violation and a plan for the satisfactory correction
2150 and prevention thereof, to include specific required actions, shall be submitted by the User to
2151 [the Superintendent]. Submission of such a plan in no way relieves the User of liability for any
2152 violations occurring before or after receipt of the Notice of Violation. Nothing in this Section
2153 shall limit the authority of [the Superintendent] to take any action, including emergency actions
2154 or any other enforcement action, without first issuing a Notice of Violation.

2155
2156 10.2 Consent Orders

2157
2158 [The Superintendent] may enter into Consent Orders, assurances of compliance, or other similar
2159 documents establishing an agreement with any User responsible for noncompliance. Such
2160 documents shall include specific action to be taken by the User to correct the noncompliance
2161 within a time period specified by the document. Such documents shall have the same force and
2162 effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance
2163 and shall be judicially enforceable.

2164
2165 10.3 Show Cause Hearing

2166
2167 [The Superintendent] may order a User which has violated, or continues to violate, any provision
2168 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or
2169 order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before [the
2170 Superintendent] and show cause why the proposed enforcement action should not be taken.
2171 Notice shall be served on the User specifying the time and place for the meeting, the proposed
2172 enforcement action, the reasons for such action, and a request that the User show cause why the
2173 proposed enforcement action should not be taken. The notice of the meeting shall be served
2174 personally or by registered or certified mail (return receipt requested) at least [_____ (____)]
2175 days prior to the hearing. Such notice may be served on any Authorized Representative of the
2176 User as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not
2177 be a bar against, or prerequisite for, taking any other action against the User.

2178
2179 10.4 Compliance Orders

2180
2181 When [the Superintendent] finds that a User has violated, or continues to violate, any provision
2182 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or
2183 order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent]
2184 may issue an order to the User responsible for the discharge directing that the User come into
2185 compliance within a specified time. If the User does not come into compliance within the time
2186 provided, sewer service may be discontinued unless adequate treatment facilities, devices, or
2187 other related appurtenances are installed and properly operated. Compliance orders also may
2188 contain other requirements to address the noncompliance, including additional self-monitoring

2189 and management practices designed to minimize the amount of pollutants discharged to the
 2190 sewer. A compliance order may not extend the deadline for compliance established for a
 2191 Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability
 2192 for any violation, including any continuing violation. Issuance of a compliance order shall not
 2193 be a bar against, or a prerequisite for, taking any other action against the User.

2194

2195 10.5 Cease and Desist Orders

2196

2197 When [the Superintendent] finds that a User has violated, or continues to violate, any provision
 2198 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or
 2199 order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's
 2200 past violations are likely to recur, [the Superintendent] may issue an order to the User directing it
 2201 to cease and desist all such violations and directing the User to:

2202

2203 A. Immediately comply with all requirements; and

2204

2205 B. Take such appropriate remedial or preventive action as may be needed to properly
 2206 address a continuing or threatened violation, including halting operations and/or
 2207 terminating the discharge. Issuance of a cease and desist order shall not be a bar
 2208 against, or a prerequisite for, taking any other action against the User.

2209

2210 10.6 Administrative Fines

2211

2212 **[Note: The municipality should consult State law to determine whether it has the legal authority to impose**
 2213 **administrative penalties.]**

2214

2215 A. When [the Superintendent] finds that a User has violated, or continues to violate, any
 2216 provision of this ordinance, an individual wastewater discharge permit, [or a general
 2217 permit {**optional**}] or order issued hereunder, or any other Pretreatment Standard or
 2218 Requirement, [the Superintendent] may fine such User in an amount not to exceed [insert
 2219 maximum fine allowed under State Law]. Such fines shall be assessed on a per-violation,
 2220 per-day basis. In the case of monthly or other long-term average discharge limits, fines
 2221 shall be assessed for each day during the period of violation.

2222

2223 B. Unpaid charges, fines, and penalties shall, after [_____] (_____) calendar days, be
 2224 assessed an additional penalty of [_____] percent (____%) of the unpaid balance, and
 2225 interest shall accrue thereafter at a rate of [_____] percent (____%) per month. A lien
 2226 against the User's property shall be sought for unpaid charges, fines, and penalties.

2227

2228 C. Users desiring to dispute such fines must file a written request for [the
 2229 Superintendent] to reconsider the fine along with full payment of the fine amount within
 2230 [_____] (_____) days of being notified of the fine. Where a request has merit, [the
 2231 Superintendent] may convene a hearing on the matter. In the event the User's appeal is
 2232 successful, the payment, together with any interest accruing thereto, shall be returned to
 2233 the User. [The Superintendent] may add the costs of preparing administrative
 2234 enforcement actions, such as notices and orders, to the fine.

2235

2236 D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for,
2237 taking any other action against the User.
2238

2239 10.7 Emergency Suspensions

2240
2241 [The Superintendent] may immediately suspend a User's discharge, after informal notice to the
2242 User, whenever such suspension is necessary to stop an actual or threatened discharge, which
2243 reasonably appears to present, or cause an imminent or substantial endangerment to the health or
2244 welfare of persons. [The Superintendent] may also immediately suspend a User's discharge,
2245 after notice and opportunity to respond, that threatens to interfere with the operation of the
2246 POTW, or which presents, or may present, an endangerment to the environment.
2247

2248 A. Any User notified of a suspension of its discharge shall immediately stop or eliminate
2249 its contribution. In the event of a User's failure to immediately comply voluntarily with
2250 the suspension order, [the Superintendent] may take such steps as deemed necessary,
2251 including immediate severance of the sewer connection, to prevent or minimize damage
2252 to the POTW, its receiving stream, or endangerment to any individuals. [The
2253 Superintendent] may allow the User to recommence its discharge when the User has
2254 demonstrated to the satisfaction of [the Superintendent] that the period of endangerment
2255 has passed, unless the termination proceedings in Section 10.8 of this ordinance are
2256 initiated against the User.
2257

2258 B. A User that is responsible, in whole or in part, for any discharge presenting imminent
2259 endangerment shall submit a detailed written statement, describing the causes of the
2260 harmful contribution and the measures taken to prevent any future occurrence, to [the
2261 Superintendent] prior to the date of any show cause or termination hearing under Sections
2262 10.3 or 10.8 of this ordinance.
2263

2264 Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency
2265 Suspension under this Section.
2266

2267 10.8 Termination of Discharge

2268
2269 In addition to the provisions in Section 5.6 of this ordinance, any User who violates the
2270 following conditions is subject to discharge termination:
2271

2272 A. Violation of individual wastewater discharge permit [or general permit {**optional**}]
2273 conditions;
2274

2275 B. Failure to accurately report the wastewater constituents and characteristics of its
2276 discharge;
2277

2278 C. Failure to report significant changes in operations or wastewater volume, constituents,
2279 and characteristics prior to discharge;
2280

2281 D. Refusal of reasonable access to the User's premises for the purpose of inspection,
 2282 monitoring, or sampling; or

2283

2284 E. Violation of the Pretreatment Standards in Section 2 of this ordinance.

2285

2286 Such User will be notified of the proposed termination of its discharge and be offered an
 2287 opportunity to show cause under Section 10.3 of this ordinance why the proposed action should
 2288 not be taken. Exercise of this option by [the Superintendent] shall not be a bar to, or a
 2289 prerequisite for, taking any other action against the User.

2290

2291 SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

2292

2293 11.1 Injunctive Relief

2294

2295 When [the Superintendent] finds that a User has violated, or continues to violate, any provision
 2296 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or
 2297 order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent]
 2298 may petition the [insert name of appropriate Court] through [the City's] Attorney for the issuance
 2299 of a temporary or permanent injunction, as appropriate, which restrains or compels the specific
 2300 performance of the individual wastewater discharge permit, [the general permit, {**optional**}] order,
 2301 or other requirement imposed by this ordinance on activities of the User. [The Superintendent]
 2302 may also seek such other action as is appropriate for legal and/or equitable relief, including a
 2303 requirement for the User to conduct environmental remediation. A petition for injunctive relief
 2304 shall not be a bar against, or a prerequisite for, taking any other action against a User.

2305

2306 11.2 Civil Penalties

2307

2308 **[Note: The municipality must have the minimum authority to seek civil or criminal penalties in the amount of**
 2309 **at least \$1,000 per day per violation.]**

2310

2311 A. A User who has violated, or continues to violate, any provision of this ordinance, an
 2312 individual wastewater discharge permit, [or a general permit {**optional**}] or order issued
 2313 hereunder, or any other Pretreatment Standard or Requirement shall be liable to [the City]
 2314 for a maximum civil penalty of [insert maximum allowed under State law but not less
 2315 than \$1,000] per violation, per day. In the case of a monthly or other long-term average
 2316 discharge limit, penalties shall accrue for each day during the period of the violation.

2317

2318 B. [The Superintendent] may recover reasonable attorneys' fees, court costs, and other
 2319 expenses associated with enforcement activities, including sampling and monitoring
 2320 expenses, and the cost of any actual damages incurred by [the City].

2321

2322 C. In determining the amount of civil liability, the Court shall take into account all
 2323 relevant circumstances, including, but not limited to, the extent of harm caused by the
 2324 violation, the magnitude and duration of the violation, any economic benefit gained
 2325 through the User's violation, corrective actions by the User, the compliance history of the
 2326 User, and any other factor as justice requires.

2327

2328 D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking
2329 any other action against a User.

2330
2331 11.3 Criminal Prosecution

2332
2333 **[Note: To the extent State law authorizes a municipality to prosecute violations of local ordinances as a crime**
2334 **under State law, the municipality should include the following provision in its local ordinance.]**

2335
2336 A. A User who willfully or negligently violates any provision of this ordinance, an
2337 individual wastewater discharge permit, [or a general permit {optional}] or order issued
2338 hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be
2339 guilty of a misdemeanor, punishable by a fine of not more than [insert maximum fine
2340 allowed under State law] per violation, per day, or imprisonment for not more than
2341 [_____ (____)] years, or both.

2342
2343 B. A User who willfully or negligently introduces any substance into the POTW which
2344 causes personal injury or property damage shall, upon conviction, be guilty of a
2345 [misdemeanor] and be subject to a penalty of at least [insert maximum fine allowable
2346 under State law], or be subject to imprisonment for not more than [_____ (____)] years,
2347 or both. This penalty shall be in addition to any other cause of action for personal injury
2348 or property damage available under State law.

2349
2350 C. A User who knowingly makes any false statements, representations, or certifications
2351 in any application, record, report, plan, or other documentation filed, or required to be
2352 maintained, pursuant to this ordinance, individual wastewater discharge permit, [or
2353 general permit {optional}] or order issued hereunder, or who falsifies, tampers with, or
2354 knowingly renders inaccurate any monitoring device or method required under this
2355 ordinance shall, upon conviction, be punished by a fine of not more than [insert
2356 maximum fine allowable under State law] per violation, per day, or imprisonment for not
2357 more than [_____ (____)] years, or both.

2358
2359 D. In the event of a second conviction, a User shall be punished by a fine of not more
2360 than [insert maximum fine allowable under State law] per violation, per day, or
2361 imprisonment for not more than [_____ (____)] years, or both.

2362
2363 11.4 Remedies Nonexclusive

2364
2365 The remedies provided for in this ordinance are not exclusive. [The Superintendent] may take
2366 any, all, or any combination of these actions against a noncompliant User. Enforcement of
2367 pretreatment violations will generally be in accordance with [the City's] enforcement response
2368 plan. However, [the Superintendent] may take other action against any User when the
2369 circumstances warrant. Further, [the Superintendent] is empowered to take more than one
2370 enforcement action against any noncompliant User.

2371

2372 SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

2373

2374 12.1 Penalties for Late Reports {Optional}

2375

2376 A penalty of \$[xx] shall be assessed to any User for each day that a report required by this
2377 ordinance, a permit or order issued hereunder is late, beginning five days after the date the report
2378 is due [higher penalties may also be assessed where reports are more than 30-45 days late].
2379 Actions taken by [the Superintendent] to collect late reporting penalties shall not limit [the
2380 Superintendent's] authority to initiate other enforcement actions that may include penalties for
2381 late reporting violations.

2382

2383 12.2 Performance Bonds {Optional}

2384

2385 [The Superintendent] may decline to issue or reissue an individual wastewater discharge permit
2386 [or a general permit {optional}] to any User who has failed to comply with any provision of this
2387 ordinance, a previous individual wastewater discharge permit, [or a previous general permit
2388 {optional}] or order issued hereunder, or any other Pretreatment Standard or Requirement, unless
2389 such User first files a satisfactory bond, payable to [the City], in a sum not to exceed a value
2390 determined by [the Superintendent] to be necessary to achieve consistent compliance.

2391

2392 12.3 Liability Insurance {Optional}

2393

2394 [The Superintendent] may decline to issue or reissue an individual wastewater discharge [or a
2395 general permit {optional}] to any User who has failed to comply with any provision of this
2396 ordinance, a previous individual wastewater discharge permit, [or a previous general permit
2397 {optional}] or order issued hereunder, or any other Pretreatment Standard or Requirement, unless
2398 the User first submits proof that it has obtained financial assurances sufficient to restore or repair
2399 damage to the POTW caused by its discharge.

2400

2401 12.4 Payment of Outstanding Fees and Penalties {Optional}

2402

2403 [The Superintendent] may decline to issue or reissue an individual wastewater discharge permit
2404 [or a general permit {optional}] to any User who has failed to pay any outstanding fees, fines or
2405 penalties incurred as a result of any provision of this ordinance, a previous individual wastewater
2406 discharge permit, [or a previous general permit {optional}] or order issued hereunder.

2407

2408 12.5 Water Supply Severance {Optional}

2409

2410 Whenever a User has violated or continues to violate any provision of this ordinance, an
2411 individual wastewater discharge permit, [a general permit, {optional}] or order issued hereunder,
2412 or any other Pretreatment Standard or Requirement, water service to the User may be severed.
2413 Service will recommence, at the User's expense, only after the User has satisfactorily
2414 demonstrated its ability to comply.

2415

2416 12.6 Public Nuisances {Optional}

2417
2418 A violation of any provision of this ordinance, an individual wastewater discharge permit, [a
2419 general permit, {optional}] or order issued hereunder, or any other Pretreatment Standard or
2420 Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by
2421 [the Superintendent]. Any person(s) creating a public nuisance shall be subject to the provisions
2422 of [the City Code] [insert proper citation] governing such nuisances, including reimbursing [the
2423 City] for any costs incurred in removing, abating, or remedying said nuisance.

2424
2425 12.7 Informant Rewards {Optional}

2426
2427 [The Superintendent] may pay up to [_____ dollars (\$_____)] for information leading to the
2428 discovery of noncompliance by a User. In the event that the information provided results in a
2429 civil penalty [or an administrative fine] levied against the User, [the Superintendent] may
2430 disperse up to [_____ percent (____%)] of the collected fine or penalty to the informant.
2431 However, a single reward payment may not exceed [_____ dollars (\$_____)].

2432
2433 12.8 Contractor Listing {Optional}

2434
2435 Users which have not achieved compliance with applicable Pretreatment Standards and
2436 Requirements are not eligible to receive a contractual award for the sale of goods or services to
2437 [the City]. Existing contracts for the sale of goods or services to [the City] held by a User found
2438 to be in Significant Noncompliance with Pretreatment Standards or Requirements may be
2439 terminated at the discretion of [the Superintendent].

2440
2441 SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

2442
2443 [Note: Although Federal law allows the affirmative defenses set out in this Section, some Approved States do
2444 not allow for one or more of the affirmative defenses listed below.]

2445
2446 13.1 Upset

2447
2448 A. For the purposes of this Section, upset means an exceptional incident in which there is
2449 unintentional and temporary noncompliance with categorical Pretreatment Standards
2450 because of factors beyond the reasonable control of the User. An upset does not include
2451 noncompliance to the extent caused by operational error, improperly designed treatment
2452 facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or
2453 improper operation.

2454
2455 B. An upset shall constitute an affirmative defense to an action brought for
2456 noncompliance with categorical Pretreatment Standards if the requirements of paragraph
2457 (C), below, are met.

2458
2459 C. A User who wishes to establish the affirmative defense of upset shall demonstrate,
2460 through properly signed, contemporaneous operating logs, or other relevant evidence
2461 that:

2462

- 2463 (1) An upset occurred and the User can identify the cause(s) of the upset;
2464
2465 (2) The facility was at the time being operated in a prudent and workman-like
2466 manner and in compliance with applicable operation and maintenance procedures;
2467 and
2468
2469 (3) The User has submitted the following information to [the Superintendent]
2470 within twenty-four (24) hours of becoming aware of the upset [if this information
2471 is provided orally, a written submission must be provided within five (5) days]:
2472
2473 (a) A description of the indirect discharge and cause of noncompliance;
2474
2475 (b) The period of noncompliance, including exact dates and times or, if not
2476 corrected, the anticipated time the noncompliance is expected to continue; and
2477
2478 (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence
2479 of the noncompliance.
2480

2481 D. In any enforcement proceeding, the User seeking to establish the occurrence of an
2482 upset shall have the burden of proof.
2483

2484 E. Users shall have the opportunity for a judicial determination on any claim of upset
2485 only in an enforcement action brought for noncompliance with categorical Pretreatment
2486 Standards.
2487

2488 F. Users shall control production of all discharges to the extent necessary to maintain
2489 compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its
2490 treatment facility until the facility is restored or an alternative method of treatment is
2491 provided. This requirement applies in the situation where, among other things, the
2492 primary source of power of the treatment facility is reduced, lost, or fails.
2493

2494 13.2 Prohibited Discharge Standards 2495

2496 A User shall have an affirmative defense to an enforcement action brought against it for
2497 noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific
2498 prohibitions in Sections 2.1(B)(3) through [(__)] of this ordinance if it can prove that it did not
2499 know, or have reason to know, that its discharge, alone or in conjunction with discharges from
2500 other sources, would cause Pass Through or Interference and that either:
2501

2502 A. A Local Limit exists for each pollutant discharged and the User was in compliance
2503 with each limit directly prior to, and during, the Pass Through or Interference; or
2504

2505 B. No Local Limit exists, but the discharge did not change substantially in nature or
2506 constituents from the User's prior discharge when [the City] was regularly in compliance
2507 with its NPDES permit, and in the case of Interference, was in compliance with
2508 applicable sludge use or disposal requirements.

2509
2510 [Note: The references in Section 13.2 should refer only to specific prohibitions actually listed in the
2511 ordinance. Also note that, pursuant to 40 CFR 403.5(a)(2), the affirmative defense outlined in Section 13.2
2512 cannot apply to the specific prohibitions in Sections 2.1B(1) and (2), and (8).]
2513

2514 13.3 Bypass

2515 2516 A. For the purposes of this Section,

2517
2518 (1) Bypass means the intentional diversion of wastestreams from any portion of a
2519 User's treatment facility.

2520
2521 (2) Severe property damage means substantial physical damage to property,
2522 damage to the treatment facilities which causes them to become inoperable, or
2523 substantial and permanent loss of natural resources which can reasonably be
2524 expected to occur in the absence of a bypass. Severe property damage does not
2525 mean economic loss caused by delays in production.
2526

2527 B. A User may allow any bypass to occur which does not cause Pretreatment Standards
2528 or Requirements to be violated, but only if it also is for essential maintenance to assure
2529 efficient operation. These bypasses are not subject to the provision of paragraphs (C) and
2530 (D) of this Section.

2531 2532 C. Bypass Notifications

2533
2534 (1) If a User knows in advance of the need for a bypass, it shall submit prior
2535 notice to [the Superintendent], at least ten (10) days before the date of the bypass,
2536 if possible.

2537
2538 (2) A User shall submit oral notice to [the Superintendent] of an unanticipated
2539 bypass that exceeds applicable Pretreatment Standards within twenty-four (24)
2540 hours from the time it becomes aware of the bypass. A written submission shall
2541 also be provided within five (5) days of the time the User becomes aware of the
2542 bypass. The written submission shall contain a description of the bypass and its
2543 cause; the duration of the bypass, including exact dates and times, and, if the
2544 bypass has not been corrected, the anticipated time it is expected to continue; and
2545 steps taken or planned to reduce, eliminate, and prevent reoccurrence of the
2546 bypass. [The Superintendent] may waive the written report on a case-by-case
2547 basis if the oral report has been received within twenty-four (24) hours.
2548

2549 D. Bypass

2550
2551 (1) Bypass is prohibited, and [the Superintendent] may take an enforcement action
2552 against a User for a bypass, unless

2553
2554 (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe
2555 property damage;

2556 (b) There were no feasible alternatives to the bypass, such as the use of auxiliary
2557 treatment facilities, retention of untreated wastes, or maintenance during
2558 normal periods of equipment downtime. This condition is not satisfied if
2559 adequate back-up equipment should have been installed in the exercise of
2560 reasonable engineering judgment to prevent a bypass which occurred during
2561 normal periods of equipment downtime or preventive maintenance; and

2562 (c) The User submitted notices as required under paragraph (C) of this section.

2563
2564 (2) [The Superintendent] may approve an anticipated bypass, after considering its
2565 adverse effects, if [the Superintendent] determines that it will meet the three
2566 conditions listed in paragraph (D)(1) of this Section.
2567

2568

2569 SECTION 14—WASTEWATER TREATMENT RATES - [RESERVED]

2570

2571 SECTION 15—MISCELLANEOUS PROVISIONS {Optional}

2572

2573 15.1 Pretreatment Charges and Fees {Optional}

2574

2575 [The City] may adopt reasonable fees for reimbursement of costs of setting up and operating [the
2576 City's] Pretreatment Program, which may include:

2577

2578 A. Fees for wastewater discharge permit applications including the cost of processing
2579 such applications;

2580

2581 B. Fees for monitoring, inspection, and surveillance procedures including the cost of
2582 collection and analyzing a User's discharge, and reviewing monitoring reports and
2583 certification statements submitted by Users;

2584

2585 C. Fees for reviewing and responding to accidental discharge procedures and
2586 construction;

2587

2588 D. Fees for filing appeals;

2589

2590 E. Fees to recover administrative and legal costs (not included in Section 15.1 B)
2591 associated with the enforcement activity taken by the [Superintendent] to address IU
2592 noncompliance; and

2593

2594 F. Other fees as [the City] may deem necessary to carry out the requirements contained
2595 herein. These fees relate solely to the matters covered by this ordinance and are
2596 separate from all other fees, fines, and penalties chargeable by [the City].

2597

2598 15.2 Severability {Optional}

2599

2597 If any provision of this ordinance is invalidated by any court of competent jurisdiction, the
2598 remaining provisions shall not be affected and shall continue in full force and effect.
2599

2600 SECTION 16—EFFECTIVE DATE

2601

2602 This ordinance shall be in full force and effect immediately following its passage, approval, and
2603 publication, as provided by law.

2604