

## Gage, Hannah

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**From:** Gilliam, Allen  
**Sent:** Thursday, January 12, 2017 1:49 PM  
**To:** 'Paul Burns'; Cary Roth  
**Cc:** Gage, Hannah; Yates, Adam; Johnson, Lindsay; McWilliams, Carrie; Leamons, Bryan  
**Subject:** AR0043397\_Rogers Jan 2017 conditionally approved Pretreatment Ord to be current with the Oct 2005 Streamlining revisions to 40 CFR 403\_20170112  
**Attachments:** Rogers ADEQ reviewed Pretreatment Ordinance.docx

Paul,

This office has reviewed Rogers' submittal of its revised Pretreatment Ordinance to be current with the 10/05 Streamlining revisions to the Federal Pretreatment Regulations in 40 CFR 403. This office has 150 comments, recommendations and a handful of required changes.

Rogers' modified Pretreatment Ordinance is hereby conditionally approved awaiting the receipt of a final draft at least including the required changes. I believe you'll also agree with many of my comments and recommendations.

Thank you for the work you put into this document. We now have ~14 Pretreatment Ordinances in a standardized format.

Sincerely,

Allen Gilliam  
ADEQ State Pretreatment Coordinator  
501.682.0625

E/NPDES/NPDES/Pretreatment/Reports

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**From:** Paul Burns [<mailto:PaulBurns@RWU.ORG>]  
**Sent:** Monday, January 09, 2017 10:17 AM  
**To:** Gilliam, Allen  
**Cc:** Cary Roth  
**Subject:** Modified Pretreatment Programs Rogers Ordinance Article ready for review

Allen,

I hope you have some time to review this and give me some guidance. Once I revised it based on your recommendations, I can then pass it on to the Utility manager and attorney.

I apologize for not doing the best job tracking changes in the first third of the document. It took me a while to finalize my ground rules for editing.

Regards,

Paul Burns  
*Pretreatment Coordinator*  
**ROGERS POLLUTION CONTROL FACILITY**

**ROGERS WATER UTILITIES**

479-273-7378 x306 *work*

479-276-1942 *mobile*

# CITY OF ROGERS

## PRETREATMENT REGULATIONS ORDINANCE

### CHAPTER 54 – UTILITIES, ARTICLE V

ORDINANCE NO. \_\_\_\_\_

*This copy must be reviewed and reformatted before printing*

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**DIVISION 1. GENERAL PROVISIONS**

**Sec. 54 - 387. Purpose and policy**

**Comment [pnb1]:** DIVISIONS are supposed to be all CAPS but autoformat doesn't always do this.

**Comment [PNB2]:** Was 54-388

**Comment [pnb3]:** EPA M SUO 1.1

(a) This Article sets forth uniform requirements for Users of the publicly owned treatment works (POTW) for the City of Rogers, Arkansas and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 U.S.C. sections 1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). The objectives of this Article are:

- (1) to prevent the introduction of pollutants into the POTW that will interfere with its operation;
- (2) to prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- (3) to protect POTW personnel who may be affected by contact with wastewater and biosolids in the course of their employment and to protect the general public;
- (4) to ensure that the quality of the wastewater treatment plant biosolids is maintained at a level to allow its use and disposal in compliance with applicable statutes and regulations;
- (5) to improve the opportunity for promoting the reuse and recycling of wastewater and biosolids from the POTW;
- (6) to provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
- (7) to enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, and any other Federal or State laws to which the POTW is subject; and
- (8) to encourage Industrial User waste minimization, recycling/reuse, best management practices; and water, resource and energy conservation through pollution prevention activities.

(b) This Article shall apply to all Users of the POTW. This Article authorizes the issuance of industrial wastewater discharge permits, 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.

**Comment [PNB4]:** Combined now with Purpose and Policy

**Sec. 54 - 388. Administration**

Except as otherwise provided herein, the City's Water Utility Superintendent or the Superintendent's duly authorized City representative(s) shall administer, implement, and enforce the provisions of this Article. The Superintendent and duly authorized representatives are hereby referred to as the Control Authority.

**Comment [PNB5]:** Was 54-390 but titled "Authority", EPA M SUO 1.2

**Comment [pnb6]:** Changed from Manager to Superintendent

~~Sec. 54 391 Multijurisdictional agreement~~

**Comment [PNB7]:** Located under Wastewater Discharge Permit Issuance Process ,regulation of waste received from other jurisdictions EPA M SUO 5.8

**Sec. 54 - 389. Abbreviations**

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

**Comment [PNB8]:** Was 54-392

**Comment [pnb9]:** EPA M SUO 1.1

ADEQ	Arkansas Department of Environmental Quality
BMP	Best Management Practice
<b>BMR</b>	<b>Baseline Monitoring Report</b>
BOD	Biochemical Oxygen Demand

CBOD	Carbonaceous Biochemical Oxygen Demand
CFR	Code of Federal Regulations
<del>CIU</del>	<del>Categorical Industrial User</del>
COD	Chemical Oxygen Demand
<del>CWA</del>	<del>Clean Water Act</del>
DMR	Discharge Monitoring Report
EPA	U.S. Environmental Protection Agency
<del>ERP</del>	<del>Enforcement Response Plan</del>
<del>FOG</del>	<del>Fats, Oils and Grease</del>
<del>gpd</del>	<del>gallons per day</del>
<del>IU</del>	<del>Industrial User</del>
<del>#s/day</del>	<del>pounds per day</del>
mg/L	milligrams per liter or parts per million
<del>µg/L</del>	<del>micrograms per liter or parts per billion</del>
<del>ng/L</del>	<del>nanograms per liter or parts per trillion</del>
<del>NAICS</del>	<del>North American Industrial Classification System</del>
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
<del>NSCIU</del>	<del>Non-Significant Categorical Industrial User</del>
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
<del>RWU</del>	<del>Rogers Water Utilities</del>
<del>RPCF</del>	<del>Rogers Pollution Control Facility</del>
SIU	Significant Industrial User
SNC	Significant Noncompliance
TRC	Technical Review Criteria
TSS	Total Suspended Solids
U.S.C.	United States Code
<del>WWTP</del>	<del>Waste Water Treatment Plant</del>

**Sec. 54 - 390. Definitions**

**Comment [PNB10]:** Was 54-387, EPA M SUO 1.4

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

**Comment [PNB11]:** Remove all terms not used at least once from final version

~~Accessible means direct access without the necessity of removing any panel, door, vehicle, equipment, materials or other similar obstruction, when applied to required pretreatment monitoring or treatment equipment.~~

**Comment [PNB12]:** Only used once for grease abatement GI access, not used for pretreatment monitoring

Act or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 U.S.C. 1251 *et seq.*

~~Applicable pretreatment standards and regulations means all state, interstate, and federal standards and regulations to which a discharge, a wastewater sludge use or disposal practice, or a related activity is subject under the CWA, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, pretreatment standards and regulations, categorical standards, and standards for wastewater sludge use or disposal under sections 301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.~~

**Comment [pnb13]:** Not required not needed

Approval Authority means the Arkansas Department of Environmental Quality (ADEQ).

~~Ammonia or NH3 as N means the amount of ammonia as the element N as measured by laboratory procedures, usually expressed as a concentration (e.g., mg/L).~~

Authorized or Duly Authorized Representative of the User means

- (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 operation 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 industrial 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 paragraphs 1 through 3, above, may designate another Duly 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 Control Authority.



Baseline Monitoring Report ~~or BMR~~ means information provided to the Control Authority by all new source Industrial Users subject to categorical pretreatment standards at least 90 days prior to the commencement of discharge or by all existing sources within 180 days after the effective date of any applicable categorical standard in accordance with 40 CFR 403.12(b). The purpose of the BMR-baseline monitoring report is to provide information to the Control Authority including identifying information, description of existing environmental permits, description of operations, flow measurements, and the concentration of pollutants in the wastestream.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, general good housekeeping practices, design standards, operational practices, maintenances procedures, educational activities and other management practices to implement the prohibitions listed in 54-414 and 54-415 of this ArticleSec. 2.1 A and B [40 CFR 403.5(a)(1) and (b)] BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Biochemical Oxygen Demand, ~~or BOD or BOD<sub>5</sub>~~ means the quantity of oxygen utilized-depleted in the biochemical oxidation of organic matter by microorganisms under-as measured by laboratory procedures, standard laboratory procedures for 5 days at 20°C, usually expressed as a concentration (e.g., mg/L).

Bypass means the intentional diversion of wastewater from any portion of a User's treatment facility.

Carbonaceous Biochemical Oxygen Demand, ~~or CBOD or CBOD<sub>5</sub>~~ means the quantity of oxygen utilized-depleted in the biochemical oxidation of organic matter by microorganisms as measured by laboratory procedures, under standard laboratory procedures for 5 days at 20°C; however, the contribution from nitrogenous bacteria oxidizing ammonia is suppressed, usually expressed as a concentration (e.g., mg/L).

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Secs. 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.

Categorical Industrial User means an Industrial User subject to one or more of EPA's categorical pretreatment standards.

Chemical Oxygen Demand or COD means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water as measured by laboratory procedures, usually expressed as a concentration (e.g., mg/L).

City means the City of Rogers, Arkansas or authorized individuals representing the City.

Code of Federal Regulations or CFR means a publication of the United States government that contains all of the finalized federal regulations.

Combined Wastestream Formula ~~or CWF~~ means procedure for calculating alternative discharge limits at industrial facilities where a regulated wastestream from a categorical Industrial User is combined with other wastestreams prior to treatment as described in 40 CFR 403.6(e).

Composite Sample means a sample resulting from the collection of individual samples obtained at regular intervals either based on time intervals or flow intervals.

*Control Authority* means the jurisdictional entity that oversees the implementation of the National Pretreatment Program at the local level. The Control Authority is the Rogers Water Utilities Manager or a duly authorized representative.

~~*Daily Maximum* means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.~~

*Daily Maximum Limit* means the maximum allowable discharge limit of a pollutant during a calendar day. ~~Where Daily Maximum Limits are expressed in units of mass, or units of concentration, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.~~

*Effluent* means outward flowing wastewater or other liquid (raw, untreated, partially or completely treated).

~~*Enforcement Response Plan* means a separate document that describes specific actions the City will take to respond to violations of this article.~~

*Environmental Protection Agency or EPA* means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

*Existing Source* means any source of discharge that is not a “New Source”.

~~*Fats, Oil, and Grease (or Oil and Grease)* means materials of vegetable, animal and mineral origin as measured by laboratory procedures, usually expressed as a concentration (e.g., mg/L). Vegetable and animal based oil and grease occur at food processors and food service establishments (restaurants) and are considered polar. Mineral based oil and grease occur at businesses using petroleum based materials and are considered non-polar. Both polar and non-polar can be degraded by acclimated microorganisms. Oil and grease can cause blockages or clogging in sanitary sewer lines.~~

~~*Food service facility* means any facility that prepares and/or packages food for sale or consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to: food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and all other food service facilities not listed above.~~

*Grab Sample* means a sample that 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. Multiple samples can be combined as one representative sample as long as the 15 minute time limit is not exceeded.

~~*Hauled Liquid Waste* means any residential or approved commercial wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks that is hauled to the POTW at regulated by the Control Authority under Article IV Division 5 of this Chapter.~~

~~*Hazardous Waste* means a solid waste that meets one of the two criteria: 1) it has one of the following four characteristics — ignitibility, corrosivity, reactivity, or toxicity (according to the Toxicity Characteristic Leaching Procedure or TCLP), or 2) it must be a listed hazardous waste in 40 CFR 261.31-261.33.~~

*Indirect Discharge or Discharge* means the flow of pollutants to the POTW from any non-domestic source regulated under sections 307(b), (c), or (d) of the Act.

**Comment [pnb15]:** Definition borrowed from EPA Local limits development guidance (July 2004) p. 5-24.

**Comment [pnb16]:** My interpretation since some have argued that you cannot duplicate a pH grab unless you collect it at the exact instant as the first sample.

**Comment [GA17]:** I don't remember seeing any docs from EPA regarding splits for pH so no comment.

*Industrial User or User or IU* means any non-domestic source that contributes, causes or permits the contribution of wastewater into the City's POTW as described in 40 CFR 403.3(h).

~~*Industrial-User Wastewater Discharge Permit*~~ means an authorization or equivalent control document issued by the City to Industrial Users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this Article.

*Industrial Wastewater* means water or liquid-carried waste from any industry, manufacturing operation, trade, or business which includes any combination of process wastewater, cooling water, contaminated stormwater, contaminated leachates, or other waters such that the combined effluent differs in some way from purely domestic sewage, or is subject to regulation under Federal categorical pretreatment standards, State regulations, or this Article.

~~*Instantaneous Maximum Allowable Discharge Limit*~~ means ~~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.~~

*Interference* means a discharge, which alone or in conjunction with a discharge or discharges from other sources, either

- (1) Inhibits or disrupts the POTW, its treatment processes or operation;
- (2) Inhibits or disrupts sludge processes, use or disposal; or
- (3) Is the cause of a violation of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of wastewater 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.

*Local Limits* means specific effluent discharge limits applicable to Industrial Users of the Control Authority's system developed and enforced by the Control Authority in accordance with 40 CFR 403.5(c).

~~*Maximum Allowable Discharge Limit*~~ means ~~the highest pollutant level allowed for a specific duration, such as daily maximum or monthly average.~~

*Medical Waste* means 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.

*Monthly Average Limit* means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all discharges measured during a calendar month divided by the number of daily discharges measured during that month.

*National Pollutant Discharge Elimination System or NPDES* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Secs. 307, 402, 318, and 405 of the Clean Water Act.

~~*National Pollutant Discharge Elimination System Permit or NPDES Permit*~~ means ~~a permit issued by the State of Arkansas pursuant to Section 402 of the Act (33 U.S.C. 1342).~~

*New Source* means

(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 building, structure, facility, or installation is constructed for production or wastewater generating processes, which are substantially independent of an existing source at the same site. Substantially independent shall be determined by 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.

(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) For the purpose of this definition, construction is deemed to commence when:

- a. The owner or operator of the facility has entered into a binding contractual obligation for the purchase of facilities or equipment that 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 herein; or when
- b. The following are begun as part of a continuous on-site construction:
  - (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 that are necessary for the placement, assembly, or installation of new source facilities or equipment.

~~Noncontact Cooling Water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.~~

~~North American Industry Classification or NAIC means the industry classification system developed to provide a consistent framework for the collection, analysis and dissemination of industrial statistics and used by the statistical agencies of the United States.~~

~~Overloading means a condition occurring when discharges from Users (singly or in combination) contain conventional pollutants that the WWTP is designed to treat but in quantities that exceed the design capacity of the WWTP.~~

~~Pass Through means a condition occurring when discharges from users (singly or in combination) exit the POTW into waters of the United States in quantities or concentrations which either cause a violation of any requirement of a city NPDES permit, cause an increase in the magnitude or duration of a~~

**Comment [pnb18]:** Added, term is actually used in several EPA documents.

~~violation~~, when discharges from Users (singly or in combination) cause one or more pollutants to “pass through” the WWTP untreated or partially treated. The WWTP’s effluent is discharged into the receiving stream (waters of the State) containing pollutant levels which either cause a violation of any requirement of a City NPDES permit, including an increase in the magnitude or duration of a violation, or ~~cause~~ a violation of any water quality standard of the receiving stream.

*Person* means any individual, partnership, co-partnership, 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.

*pH* means a measure of the acidity or alkalinity of a solution, expressed in standard units (SU). The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions is expressed in grams per liter of solution.

~~Pharmaceutical drug., also referred to as medicine, medication or medicament, can be loosely defined as any chemical substance intended for use in the medical diagnosis, cure, treatment, or prevention of disease.~~

**Comment [GA19]:** Suggest including since you’re prohibiting it.

~~Phosphorus as P or T-P means the total amount of phosphorus as the element P as measured by laboratory procedures, usually expressed as a concentration (e.g., mg/L).~~

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, residential, commercial and industrial wastewater, garbage, 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., including, but not limited to, NH3-N, CBOD, COD, pH, T-P,~~ temperature, TSS, turbidity, color, ~~BOD, CBOD,~~ toxicity, or odor).

~~Pollution means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.~~

*Pollution Prevention or P2* means the reduction of waste generation at a source including a practice that reduces the amount of a hazardous substance, pollutant, or contaminant entering a wastewater or released into the environment before recycling, treatment, or disposal, and/or reduces a hazard to public health and the environment associated with the release of a hazardous substance, pollutant or contaminant.

*Pretreatment* means 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 in accordance with 40 CFR 403.3 (q). 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.

*Pretreatment Program or Program* means a program administered by a POTW that meets the criteria established in 40 CFR 403.8 and 403.9, and which has been approved by the Approval Authority in accordance with 40 CFR 403.11.

*Pretreatment Requirements* means any substantive or procedural requirement related to pretreatment imposed on an Industrial User, other than a pretreatment standard.

*Pretreatment Standards or Standards* means any regulation which applies to Industrial Users that contains pollutant discharge limits promulgated by the EPA in accordance with the Act, to include prohibited discharge standards and categorical pretreatment standards, and local limits.

*Prohibited Discharge Standards or Prohibited Discharges* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in sections ~~118-381-54-414~~ and ~~118-38254-415~~ of this Article.

*Publicly Owned Treatment Works or POTW* means any sewage 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 residential, commercial or **compatible** industrial wastewater and any conveyances, which convey wastewater to a treatment plant.

*Resource Conservation and Recovery Act or RCRA* means a Federal statute regulating the management of hazardous waste from its generation through ultimate disposal. The Act contains requirements for waste generators, transporters, and owners and operators of treatment, storage, and disposal facilities [42 USC 6901 et seq.].

~~*Septic Tank Waste or Hauled Waste* means any residential wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.~~

~~*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.~~

*Sewage or Sanitary Sewage* means water-carried human waste or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments.

*Sewer* means any pipe, conduit, ditch or other device used to collect and transport sewage from the generating source.

*Significant Industrial User or SIU* means any Industrial User of the POTW that:

- (1) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, or
- (2) Any other Industrial User that:
  - a. Discharges an average of 25,000 ~~gpd~~ **gallons per day** or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or
  - b. Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW; or
  - c. Is designated as such by the City as defined in 40 CFR 403.12(a) on the basis that the User has a reasonable potential, either singly or in combination with other contributing industries, for adversely affecting the City's wastewater collection and/or the POTW operation, the quality of sludge, the system's effluent quality, or air emissions generated by the system or for violating any pretreatment standard or requirement.
- (3) Upon the subsequent finding that an User, which had met the above criteria **in subsection (2)**, no longer has 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 written request from the Industrial 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.

**Comment [GA20]:** How many times have you read or heard POTWs were designed to treat domestic sewage, NOT industrial waste. Add compatible. Big mistake in EPA's definition and was brought to HQ's attention over a couple yrs ago.

Significant Noncompliance or SNC, for the purposes of this Article, shall mean:

(1) ~~Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or allowable daily or monthly average discharge limit for the same pollutant parameter by any amount;~~

(1) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

**Comment [GA21]:** Require revising per definition in 403.8(f)(2)(viii)(A) although you may never use instantaneous limits. You have it right in Division 10.

(2) ~~Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable factor of 1.4 for BOD, CBOD, COD, TSS, fats, oil and grease, NH3-N and T-P and 1.2 for all other pollutants except pH;~~

**Comment [GA22]:** Revise per 403.8(f)(2)(viii)(B)

(3) ~~Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference, pass through, or endangered the health and safety of City personnel or the general public;~~

Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW 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);

**Comment [GA23]:** Revise per 403.8(f)(2)(viii)(C)

(4) Any discharge of ~~pollutants that has a pollutant(s) 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;

(5) Failure to meet, within ninety days of the scheduled date, a compliance schedule milestone contained in an indirect discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within ~~thirty (30)~~ 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;

**Comment [GA24]:** 403.8(f)(2)(viii)(F) allows for 45 now, but it is optional if you want to leave it at 30 days.

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), ~~which may include a violation of Best management practices,~~ which the City determines, will adversely affect the operation or implementation of the City's Pretreatment Program.

*Slug Load or Slug* means any discharge at a flow rate or concentration that could cause a violation of the prohibited discharges in sections ~~54-414118-381~~ and ~~54-415118-382~~ of this Article, or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge ~~which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or Permit conditions.~~

**Comment [GA25]:** Additional language in 403.8(f)(2)(vi)

~~Standard Industrial Classification Code or SIC Code means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget. Also see NAICS.~~

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

~~Suspended Solids or Total Suspended Solids or TSS means 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.~~

~~Toxic Pollutant or Total Toxic Organics or TTO means one of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.~~

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with permit limits because of factors beyond the reasonable control of the User. An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

~~User means a source of indirect discharge. See Industrial User.~~

Wastewater means liquid and water-carried wastes from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Treatment Plant or ~~Treatment Plant~~ WWTP means that portion of the POTW that is designed to provide treatment of residential, commercial and industrial wastewater.

Comment [pnb26]: Pollution Control Facility?

~~Wet or Dry Wipes means a piece of paper or cloth used for cleaning purposes that unlike toilet paper are non-dispersible and non-biodegradable. This includes, but is not limited to, baby and facial wipes, paper towels, dusting wipes, cleaning wipes, and disposable mop heads. These products are considered "non-flushable" regardless of packaging claims.~~

#### Sec. 54 - 391. Designated meanings

The terms "Shall", "Must" and "Will" are mandatory while the term "May" is permissive or discretionary when used in this Article.

### DIVISION 2. PROHIBITED DISCHARGES STANDARDS

#### Sec. 54 - 414. General prohibitions

(a) The following general prohibitions apply to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

(b) No User shall introduce or cause to be introduced into the POTW any pollutant, substance or wastewater that causes:

Comment [PNB27]: Missing from online ordinance, cut during last overall renumbering of ordinance, EPA M SUO 2.1 A



- (1) Treatment plant upset;
- (2) Pass Through or contribute to pollution of the POTW's receiving waters;
- (3) Interference with the operation of the POTW;
- (4) The POTW to be in violation of the NPDES permit;
- (5) Damage to the POTW;
- (6) A hazard to property, public health or safety;
- (7) Flow rate or quantity that exceeds the carrying capacity of the collection system.

**Sec. 54 - 415. Specific prohibitions**

(a) No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which alone or by interaction with other substances, create a fire or explosive hazard ~~in the POTW~~ including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21 ~~in accordance with 40 CFR 403.5(b)(1);~~

(2) ~~Discharges Wastewater~~ having a pH less than 5.0 or greater than 12.5, or ~~having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW in accordance with 40 CFR 403.5(b)(2) and 40 CFR 261.22 otherwise causing corrosive structural damage to the POTW or equipment;~~

(3) Solid or viscous substances in amounts which may cause stoppage or obstruction to the flow in ~~a sewer or other interference with the operation of the wastewater treatment facilities as cited in 40 CFR 403.5 (b)(3)~~ the POTW such as, but not limited to, fats, oil and grease, ashes, sand, plastic, wood, garbage, butcher waste, diapers, wet or dry wipes, disposable mop heads, paper products, etc. ~~Any additional sewer or sewerage maintenance expenses attributable thereto will be charged to the User by RWU;~~

(4) Pollutants, including oxygen-demanding pollutants (BOD, CBOD, COD, ammonia, 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 in accordance with 40 CFR 403.5(b)(4) overload the treatment capacity of the WWTP, thereby violating the City's NPDES permit causing interference in accordance with 40 CFR 403.5(b)(4);~~

(5) Wastewater having a temperature greater than ~~150 degrees Fahrenheit (65 degrees Celsius) 150 degrees F (65 degrees C)~~, or which will inhibit biological activity in the ~~treatment plant WWTP~~ resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed ~~104 degrees Fahrenheit (40 degrees Celsius) 104 degrees F (40 degrees C) as cited in 40 CFR 403.5(b)(5);~~

(6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause flow obstructions, Interference or Pass Through ~~in accordance with 40 CFR 403.5(b)(6);~~

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity or concentration that may cause acute worker health and safety problems ~~in accordance with 40 CFR 403.5(b)(7);~~

**Comment [PNB28]:** EPA M SUO 2.1 B

**Comment [pnb29]:** No need for "in accordance with 40 CFR 403.5(b)..." for (1) thru (7)

**Comment [pnb30]:** 12.5 or lower to 12.0?

**Comment [GA31]:** Suggest 12.0 since >12.5 is a haz waste, then you would have to report to our haz waste group as a TSDf and pay a huge fee.

**Comment [PNB32]:** Changed from "interference with the POTW" to "overload the treatment capacity of the WWTP" because the majority of the time these pollutants can be consumed biologically with enough aeration.

**Comment [GA33]:** The below citation also includes this. Don't rely solely on "overload"

**Comment [PNB34]:** EPA likes to capitalize Interference as well as Pass Through

(8) Trucked or hauled pollutants except at discharge points designated by Control Authority. The Control Authority ~~to~~ may prohibit the disposal of any hauled waste that interferes with the POTW operations, causes Pass Through or adversely affects the quality of the POTW sludge;

**Comment [PNB35]:** Was number 12. Lots of renumbering to match EPA Model SUO format. Removed wording that strayed too far from EPA Model SUO

(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;

**Comment [PNB36]:** This one and the following discharge prohibitions are considered optional by the EPA. Was number 14.

(10) Wastewater with objectionable color that cannot be removed by the WWTP treatment process, such as, but not limited to, dye wastes, printing ink and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;

**Comment [PNB37]:** Was number 15.

(11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Control Authority in an industrial wastewater discharge permit in compliance with applicable State or Federal regulations;

**Comment [PNB38]:** Was number 16.

(12) Storm Water, surface water, ground water, artesian well water, roof runoff, sub-surface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Control Authority;

**Comment [PNB39]:** Was number 17.

(13) Sludges, screenings or other residues from the pretreatment of industrial wastes or other prohibited waste, except as specifically authorized by the Control Authority;

**Comment [PNB40]:** Was number 18.

(14) Medical wastes, except as specifically authorized by the Control Authority;

**Comment [PNB41]:** Was number 19.

(15) Wastewater causing, alone or in conjunction with other sources, causing the POTW's effluent to fail a toxicity test;

**Comment [PNB42]:** Was number 20.

(16) ~~Wastes containing detergents~~ Detergents, surface-active agents, or other substances at levels which may cause excessive foaming in the POTW and/or its effluent;

**Comment [PNB43]:** Was number 22.

(17) Fats, oils, or greases of animal or vegetable origin, ~~or similar material~~ to the POTW in amounts that result in flow obstructions, Overloading, Interference or Pass Through;

**Comment [PNB44]:** Was number 23. Removing numeric limit because food service grease interceptors at best are only 90% efficient.

(18) Wastewater causing a single reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10% of the Lower Explosive Limit (LEL) of the meter.

**Comment [PNB45]:** EPA says two readings, rephrased

(20) Antifreeze or a coolant solution used in a vehicle or motorized equipment;

**Comment [PNB46]:** Not in EPA M SUO

(21) Any enzyme, chemical or other agent that emulsifies and/or allows fat, oil, grease or a solid to pass through a pretreatment facility, except as specifically authorized by the Control Authority;

(21) Drainage water or ground water contaminated by a prohibited pollutant, except as specifically authorized by the Control Authority; and/or

(23) Pharmaceutical drugs from any commercial, for-profit entity.

**Comment [PNB47]:** Recommended by ADEQ

(24) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for normal landfill, land application, reclamation and reuse or to interfere with the reclamation process. ~~In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria,~~

**Comment [pnb48]:** From Fayetteville, removing other language.

~~guidelines or regulations affecting sludge use or disposal developed pursuant to the SWDA, the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used;~~

(b) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in a manner that causes a discharge to the POTW.

~~(c)~~ A User may not connect a waste storage container or tank to the sanitary sewer without written approval of the Control Authority.

### DIVISION 3. PRETREATMENT STANDARDS

#### **Sec. 54 - 446. National categorical pretreatment standards**

Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471, and are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(2) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

(3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Control Authority shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(4) The Control Authority may grant a net gross adjustment to a User subject to a categorical standard in accordance with 40 CFR 403.15.

~~(1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the [City]. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.~~

#### **(2) Criteria.**

- a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet

**Comment [PNB49]:** EPA M SUO 2.2,

**Comment [pnb50]:** Changed to match EPA Model SUO

applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

- b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.
- d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The [City] may waive this requirement if it finds that no environmental degradation will result.

(5) The Control Authority may grant a variance from the limits specified in a categorical pretreatment standard to a categorical Industrial User CIU if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to the User's discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard. The User requesting variance must file a formal request to the City, along with the permit application for an industrial waste discharge permit.

**Sec. 54 - 448. State pretreatment standards. - Reserved. — Sec. 54-448**

**Sec. 54 - 449. Local limits**

(a) No User shall discharge or cause to be discharged any wastewater or waste having pollutant concentrations that would exceed a Local Limit developed by the Control Authority as established in the City's Pretreatment Program. Local limits shall be established using standard procedures, calculations and methods outlined in the most current EPA Local Limits development guidance document and must be acceptable to ADEQ.

(b) Local limits may be expressed as numerical values, narrative statements, and/or best management practices. The local limit shall be technically based predicated on the capability of on the POTW's capacity to receive and to treat the discharge the wastewater load or headworks loading, and allow the POTW to meet NPDES permit requirements.

**Comment [GA51]:** Suggest including entire section's language even tho you'll probably never use it. And it's only applicable to categorical users.

**Comment [PNB52]:** According to EPA Model SUO, the User must obtain a FDF variance directly from the EPA and supply the documentation to the local Control Authority.

**Comment [PNB53]:** Allen Gilliam says: recommend "Reserving" this section and striking current language as ADEQ has and probably will not promulgate Pretreatment Standards. And you've already established that users will comply with the National Categorical Pret. Standards above.

**Comment [PNB54]:** EPA M SUO 2.4

**Comment [pnb55]:** Used to say specific pollutant limitations

**Comment [PNB56]:** Or "Approval Authority"

**Comment [pnb57]:** Split (a) into (a) and (b)

**Comment [pnb58]:** Removed (1) thru (3)

(c) Technically based local concentration **or mass** limits (TBLL) shall apply at the point where the industry waste is discharged to the POTW as described in the industrial **User wastewater discharge** permit.

**Comment [GA59]:** You may want to use mass limits if ever necessary as you've alluded to below.

(d) All concentrations for metal pollutants shall be for total metal unless otherwise indicated.

(e) The Control Authority may impose mass limitations in addition to or in lieu of the concentration based local limits to protect the POTW and/or prevent prohibited dilution of pollutants.

~~(f) The Control Authority may develop specific discharge limitations for any other pollutant which the Control Authority may determine to be of sufficient quantity to cause POTW interference, and/or bypass through, endanger the health and safety of the POTW personnel or public health, cause a POTW permit violation, or render the POTW sludge unacceptable for economic reuse or reclamation.~~

(f) The Control Authority may select any allocation and implementation method that results in enforceable local limits and may choose one approach for some pollutants and another approach for other pollutants depending on:

- (1) the amount of loading available to Users;
- (2) the number of Users discharging a given pollutant;
- (3) each User's current loading and need for a continued loading allocation;
- (4) each User's ability to apply pretreatment to achieve certain limits;
- (5) the feasibility of making concentration limits progressively more stringent as a User's flow increases;
- (6) or any other factor that the Control Authority deems relevant.

(g) When local limits are necessary, they shall be implemented as individual limits in User industrial wastewater discharge permits. The City will provide notice to the affected Users and shall allow them the opportunity to respond.

(h) **Best management practices** may be used in addition to or in lieu of discharge limits or pretreatment requirements. BMPs may be applied when:

**Comment [GA60]:** Take note your ERP's "guide" should include enforcement options for IUs violating their BMPs.

- (1) there is not sufficient flow from a User to obtain a representative wastewater sample;
- (2) the proposed limit is less than the detection limit and/or the quantification level of the most stringent analytical procedure; and/or
- (3) the BMP is clearly the most feasible method for regulating the pollutant of concern.

#### **Sec. 54 - 450. Right of revision**

The City reserves the right to establish, by Article, resolution, industrial waste discharge permit, or other appropriate means, more stringent discharge standards or requirements to protect the POTW.

**Comment [PNB61]:** EPA M SUO 2.5

#### **Sec. 54 - 451. Dilution prohibition**

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

**Comment [PNB62]:** EPA M SUO 2.7

**Comment [pnb63]:** Moved here from after specific prohibitions. Same order as EPA M SUO and Fayetteville

discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Control Authority 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.

#### DIVISION 4. PRETREATMENT OF WASTEWATER

##### ~~Sec. 54-469118-416.~~ **Pretreatment Required**

~~— Industrial users generating wastewater containing prohibited waste discharged to the POTW must pretreat the prohibited waste in compliance with the discharge standards, local limits, and requirements established in this article or otherwise lawfully dispose of the prohibited waste.~~

**Comment [pnb64]:** Not in EPA M SUO 3, removing

##### **Sec. 54 - 470.** **Pretreatment facilities**

~~Industrial users~~ Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 54-415 within the time limitations specified by EPA, the State, or the Control Authority, whichever is more stringent. ~~All expenses for construction, operation, maintenance, inspection, calibration and certification of the pretreatment facility or pretreatment~~ Any facilities and measures required for compliance shall be provided, operated and maintained at the User's expense.

**Comment [PNB65]:** EPA M SUO 3.1

##### **Sec. 54 - 471** **Pretreatment facilities plans**

Detailed plans describing such facilities and operating procedures shall be submitted to the Control Authority for review, and shall be acceptable to the Control Authority 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 Article. Subsequent changes to the pretreatment facilities or methods of operation shall be reported to and be acceptable to the Control Authority. ~~A user required to pretreat waste or wastewater before discharging to the POTW shall submit detailed plans and specifications describing the pretreatment facility and operating procedures to the control authority for review. A pretreatment facility plan shall describe the proposed pretreatment method, process or technology, including products, chemical, agents or devices used for pretreatment. The pretreatment facility plan must be acceptable to the control authority prior to constructing, using or modifying a pretreatment facility, method, process or technology and discharge of wastewater. 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 article.~~ Any subsequent change in the pretreatment facility or method of operation shall be reported to and be acceptable to the Control Authority prior to the User's initiation of the changes.

**Comment [pnb66]:** Improved wording to match Fayetteville.

##### **Sec. 54 - 472.** **Facilities inspection and approval**

**Comment [PNB67]:** Not in EPA M SUO 3.2

A User may not discharge wastewater to the POTW from or through a pretreatment facility until the facility's design, size, construction plan, installation and connection to the POTW has been inspected and approved by the Control Authority. The Control Authority may require a pretreatment facility, process, device, agent or product to be tested prior to use or commencement of a discharge to the POTW.

**Sec. 54 - 473. Additional pretreatment measures**

- (a) The Control Authority may require Users discharging to the POTW to:
  - 1. Restrict or equalize the rate of discharge during peak flow periods;
  - 2. Designate that certain wastewater be discharged only into specific sewers;
  - 3. Relocate and/or consolidate points of discharge;
  - 4. Separate domestic wastestreams from industrial wastestreams;
  - 5. Implement ~~wastewater flow control or limitations on wastewater discharge~~ other control measures as may be necessary to protect the POTW or determine the User's compliance with the requirements of this Article; and/or
  - 6. Install and maintain, on the User's property and at the User's expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial ~~User-wastewater discharge~~ permit may be issued solely for flow equalization.
- (b) The Control Authority may require the User to install individual effluent or process flow meters as necessary to ascertain actual discharge rates.
- (c) Backflow prevention devices shall be installed and maintained by the User wherever there is a possibility the User's process or activity may contaminate both the facilities and the City water supply. All requirements for backflow prevention are found in Backflow prevention assembly installation (Article III of this Chapter).
- (d) A User with wastewater containing excessive amounts of fats, oils and grease, or sand and grit shall install a grease, oil, and/or sand interceptors when the Control Authority finds they are necessary. Specific requirements are found in the City's Fats, Oils and grease (FOG), Food Waste, Sand and Soil and Lint Code (Article VI of this Chapter).
- (e) A Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter
- (f) At the City's discretion and when deemed necessary the User shall have a licensed wastewater treatment operator on duty at all times when treating and discharging regulated wastewater to the City's collection system. Said operator shall meet the license or level of operator qualifications deemed necessary for proper treatment per Arkansas Pollution Control and Ecology Commission's Regulation #3.

**Comment [PNB68]:** EPA M SUO 3.2, combined several sections, 54-474 and 54-475 merged with this section.

**Sec. 54 - 476/474. Storage and off-site disposal of wastes**

A User shall comply with applicable local, state and federal regulations on storage, handling, transportation and disposal of wastes and residues removed for off-site disposal from pretreatment facilities. Wastes and residues removed by pretreatment are prohibited from discharging to the POTW.

- (1) Stored wastes must be kept secure, clearly labeled and not be allowed to mix with stormwater or flow to a natural outlet.

**Comment [pnb69]:** New

**Comment [PNB70]:** EPA M SUO 3.4

**Comment [pnb71]:** Added by PNB because many pretreatment facilities are adjacent to stormwater drainage.

(2) Food processing wastes and residues that are biologically unstable, potentially pathogenic, can be altered rapidly through biological activity and/or are characterized by the production of strong noxious odors must be stored, handled, and transported in a manner that will minimize the production of objectionable odors.

**Comment [PNB72]:** Added by PNB for odor control issues

#### Sec. 54 - 475. **Liquid waste transport**

Septic tank and portable toilet waste may be introduced into the POTW only at locations designated by the Control Authority. All Specific requirements for liquid waste transport are found in Chapter 54 – Utilities, Article IV.

**Comment [pnb73]:** REPLACE or UPDATE MOST OF LIQUID WASTE SECTION ARTICLE IV DIV 5

#### Sec. 54 - 477/476. **Wastewater discharge eligibility**

The control authority shall deny or condition any new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by a User where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

**Comment [pnb74]:** 54-477 in current ordinance

**Comment [pnb75]:** Not in EPA M SUO

#### ~~Sec. 54-478. – New source.~~

~~(a) — The control authority may make a determination that construction at an existing source of discharge results in a new source.~~

**Comment [pnb76]:** This is covered as a definition under 54-390

~~(b) — The control authority may not find that an existing source becomes a new source if construction on a site where an existing source is located does not create a new building, structure, facility or installation meeting the definition of new source under this Article but otherwise alters, replaces or adds to existing process or production equipment.~~

**Comment [GA77]:** What's this? A typo of something unfinished?

~~(c) — The control authority may determine that a source becomes a new source if the owner or operator has:~~

~~— (1) — Begun replacement, assembly or installation of facilities or equipment, or significant site preparation work including clearing, excavation, or removal of an existing building, structure, or facility as part of a continuous onsite construction program; or~~

~~(2) — Entered a contract to purchase facilities or equipment intended for operational use within a reasonable time, excluding options to purchase or contracts subject to termination or modification without substantial loss, or feasibility, engineering, and design study contacts.~~

#### **DIVISION 5. PRETREATMENT MANAGEMENT PLANS**

#### Sec. -54 - 510/477. **Accidental discharge or slug control plan**

**Comment [PNB78]:** Does not need its own division based on EPA M SUO. Also Toxic Organic Management Plans (TOMP) are not in EPA M SUO. Certain EPA Categorical Limits require them. Neither Fayetteville or Little Rock have a division for plans.

(a) The Control Authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges at least once. Additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User. The Control Authority may require any Significant Industrial User (SIU) to develop, submit for approval and implement an accidental discharge or slug control plan. At least once every two years, the The Control Authority shall evaluate whether each SIU needs a slug control plan. An SIU that has a high potential to slug the POTW will be required to have a slug control plan. Alternatively, the Control Authority may develop such a plan for any SIU and require that the SIU implement the plan. A slug control plan is not required of SIUs with low potential to slug the POTW. A slug control plan shall address, at a minimum, the following:

**Comment [pnb79]:** Was 54-510

**Comment [GA80]:** Required per 403.8(f)(2)(vi) & should be stated in your Program procedures too.



- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals including active ingredients, purpose, container type, total amount on site and amount used per day or week;
- (3) Procedures for immediately notifying the Rogers Pollution Control Facility (the City's WWTP) and Pretreatment Program of any accidental spill or slug discharge, including any discharge that would violate any prohibition under of section 54-415; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge including, but not limited to:

a. Inspection and maintenance of storage areas;

(A) Description of discharge practices, including non-routine batch Discharges;

(B) Description of stored chemicals;

(C) Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under §403.5(b) with procedures for follow-up written notification within five days;

(D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

b. Handling, transfer and loading/unloading of materials;

c. Control of plant site runoff;

d. Worker training and signage;

e. Containment structures or equipment;

f. Measures for containing toxic organic pollutants, including solvents (if present);

g. Measures and equipment for emergency response;

h. Spill detection; and

i. Countermeasures for pretreatment equipment failure.

**Comment [GA81]:** Straight out of 403.8(f)(2)(vi) and EPA's model Ord.

(b) Plans developed by the Control Authority for the SIU will require that the User reimburse the Control Authority for all costs incurred by the city in developing the plan.

**Comment [pnb83]:** Moved from (a) above

(c) Regardless of whether an SIU must have a slug control plan or not, all SIUs must still notify the Control Authority within 24 hours when an un-anticipated bypass occurs.

**Comment [pnb84]:** Added not in old code

**Sec. 54-512. Environmental management system plan.**

**Comment [pnb85]:** Was in a separate division with slug control. Not in EPA M SUO. Does not add any real value to pretreatment program.

~~The control authority may require a user discharging to the POTW to develop, adopt and implement a comprehensive environmental management system (EMS) to demonstrate specific environmental achievements and commit to continual environmental performance improvement.~~

**DIVISION 56. INDUSTRIAL USER WASTEWATER DISCHARGE PERMITS**

**Comment [pnb86]:** Naming in line with EPA model SUO 4

**Sec. 54 - 533. Wastewater analysis**

**Comment [pnb87]:** EPA M SUO 4.1

When requested by the Control Authority, a User must submit information on the nature and characteristics of its wastewater within thirty days of the request. The Control Authority is authorized to prepare a form for this purpose and may periodically require ~~Us~~ Users to update this information.

**Sec. 54 - 534. Industrial User wastewater discharge permit requirement**

**Comment [pnb88]:** EPA M SUO 4.2

- (a) No ~~Significant Industrial User (SIU)~~ shall discharge wastewater into the POTW without first obtaining an industrial ~~User wastewater discharge~~ permit from the Control Authority. However, a SIU that has filed a timely application pursuant to section ~~54-535~~ of this Article may continue to discharge for the time period specified therein.
- (b) The Control Authority may require other Users to obtain industrial ~~wastewater dischargeuser~~ permit as necessary to carry out the purposes of this Article.
- (c) Any violation of the terms and conditions of an industrial ~~wastewater dischargeuser~~ permit shall be deemed a violation of this Article and subjects the permittee to the sanctions set out in ~~Divisions 11 through 13~~ (sections 54-672 through 54-739) of this Article.
- (d) Obtaining an industrial ~~wastewater dischargeuser~~ 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.

**Comment [PNB89]:** Divisions of the current City ordinance not the EPA Model SUO

**Sec. 54 - 535. Industrial wastewater discharge permit: existing connections**

Any User required to obtain an industrial ~~wastewater dischargeuser~~ permit who was discharging wastewater into the POTW prior to the effective date of this Article and who wishes to continue such discharges in the future, shall, ~~within 90 calendar days after said date,~~ apply to the Control Authority for an industrial ~~wastewater dischargeuser~~ permit in accordance with ~~section 54-537~~ of this Article, and shall not cause or allow discharges to the POTW to continue after ~~180~~ calendar days of the effective date of this Article except in accordance with an industrial ~~wastewater dischargeuser~~ permit issued by the Control Authority.

**Comment [GA90]:** Make sure this time frame is also shown in your IU permits.

**Comment [PNB91]:** Permit application contents

**Sec. 54 - 536. Industrial wastewater discharge permit: new connections**

Any User required to obtain an industrial ~~wastewater dischargeuser~~ permit that proposes to begin or recommence discharging industrial wastes into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this industrial wastewater discharge

permit, in accordance with section 54-537 of this Article, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

#### Industrial User Permit: Extra-Jurisdictional Industrial Users

#### Sec. 54 - 537. Industrial wastewater discharge permit application contents

Comment [PNB92]: EPA M SUO 4.5

(a) All Users required to obtain an industrial ~~wastewater discharge~~user permit must ~~submit-obtain and then submit~~ a permit application. The Control Authority may require a User to submit as part of an application the following information:

~~(1) — All information required by section 54-593(b)~~

~~(1) Identifying information.~~

~~a. The name and address of the facility, including the name of the operator and owner.~~

~~b. Contact information, description of activities, facilities, and plant production processes on the premises;~~

~~(2) Environmental permits. A list of any environmental control permits held by or for the facility.~~

~~(2) — (2)~~

~~NAIC or SIC number and 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;~~

~~(3)~~

~~Number of employees, hours of operation, and proposed or actual hours of operation;~~

~~(4)~~

~~Each product produced by type, amount, process or processes, and rate of production;~~

~~(5)~~

~~Type and amount of raw materials processed (average and maximum per day);~~

~~(6)~~

~~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;~~

(3) Description of operations

a. A comprehensive description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production) ~~and standard industrial classifications and North American industry classification codes (NAIC or SIC codes)~~ of the operation(s) carried out by such User. This description should include a comprehensive wastewater flow schematic process diagram, which indicates points of discharge to the POTW from all processes.

b. Types of wastes generated, and a list of all raw materials and chemicals (not just trade names) 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. Type and amount of raw materials processed (average and maximum per day);

Comment [GA93]: Suggest adding 'cause I've seen some terrible schematics

e. Comprehensive 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;

(4) Time and duration of discharges;

(5) The location(s) for monitoring all wastewater discharges covered by the permit;

(6) Water usage and wastewater flow rates including average and maximum process wastewater discharge flow rates, in gallons per day, to the POTW from all process streams;

(7) Measurement of pollutants

a. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by [the Superintendent], of regulated pollutants in the discharge from each regulated process.

c. Instantaneous, daily maximum, and long-term monthly average concentrations, or mass, where required, shall be reported.

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in sections 54-602 of this Article. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the [Superintendent] or the applicable Standards to determine compliance with the Standard.

e. Sampling must be performed in accordance with procedures set out in section 54-603 of this Article.

(8) Any other information as may be deemed necessary by the Control Authority to evaluate the industrial ~~wastewater discharge~~<sup>user</sup> permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. If deemed necessary, the Control Authority may require a qualified professional to certify the accuracy of any of the process narratives and site plans.

**Sec. 54 - 538. Application signatories and certification statement**

Comment [PNB94]: EPA M SUO 4.7

(a) All industrial wastewater discharge permit applications and User reports submitted to the City 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."

(b) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall

responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to Control Authority prior to or together with any reports to be signed by an Authorized Representative.

**Sec. 54 - 539. Industrial ~~user~~-wastewater discharge permit decisions**

Comment [pnb95]: EPA M SUO 4.8

The Control Authority will evaluate the data furnished by the User and may require additional information. Within 60 days of receipt of a complete industrial wastewater discharge permit application, the Control Authority will determine whether or not to issue an industrial wastewater discharge permit. The Control Authority may deny any application for an industrial wastewater discharge permit.

**DIVISION ~~76~~. INDUSTRIAL ~~USER~~-WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS**

**Sec. 54 - 557. Industrial wastewater discharge permit duration**

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

**Sec. 54 - 558. Industrial wastewater discharge permit contents**

An industrial wastewater discharge~~user~~ permit shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent overloading, 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.

- (1) Industrial wastewater discharge~~user~~ permits must contain:
  - a. A statement that indicates the industrial wastewater discharge permit issuance date, expiration date and effective date; ~~which in no event shall exceed not more than five years;~~
  - b. A statement that the Industrial wastewater discharge permit is nontransferable without prior notification to the City in accordance with section 54-561 of this Article, and provisions for furnishing the new owner or operator with a copy of the existing industrial wastewater discharge permit;
  - c. Effluent limits, including best management practices, based on applicable pretreatment standards;
  - d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements ~~and due dates~~. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
  - e. 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.

f. Requirements to control Slug Discharge, if determined by the Control Authority to be necessary in accordance with section 54-477 of this Article.

(2) Industrial wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. 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;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. A statement that compliance with the industrial 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 industrial wastewater discharge permit;
- h. A licensed wastewater operator as deemed necessary on duty at all times of treatment and discharge of regulated wastewater discharge to the City's collection system (per §51.076(B)(5)); and
- i. Other conditions as deemed appropriate by the Control Authority to ensure compliance with this Article, and State and Federal laws, rules, and regulations.

**Comment [GA96]:** Recommend giving the City the authority to require this condition "as deemed necessary".

**Sec. 54 - 559. Industrial wastewater discharge permit issuance process Appeals**

**Comment [PNB97]:** EPA M SUO 5.3

The Control Authority shall provide a draft copy of the public notice of the issuance of an industrial wastewater discharge permit to the User. The User, may petition the Control Authority to reconsider the terms of an industrial wastewater discharge permit within ~~30~~ fifteen (15) days of notice of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the industrial wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the industrial wastewater discharge permit.
- (3) The effectiveness of the industrial wastewater discharge permit shall not be stayed pending the appeal.

(4) If the Control Authority fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an [industrial wastewater discharge permit](#), not to issue an [industrial wastewater discharge permit](#), or not to modify a [industrial wastewater discharge permit](#) shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative [industrial wastewater discharge permit](#) decision must do so by filing a complaint with the court of appropriate jurisdiction.

**Sec. 54 - 560. Industrial ~~user~~ wastewater discharge permit modification**

Comment [PNB98]: EPA M SUO 5.4

The Control Authority may modify an [industrial wastewater discharge permit](#) for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of industrial wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, [beneficial biosolids use](#) or the receiving waters;
- (5) Violation of any terms or conditions of the [industrial wastewater discharge permit](#);
- (6) Misrepresentations or failure to fully disclose all relevant facts in the [industrial wastewater discharge permit](#) application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the [industrial wastewater discharge permit](#);  
or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

**Sec. 54 - 561. Industrial wastewater discharge permit transfer**

Comment [PNB99]: EPA M SUO 5.5

(a) [Industrial wastewater discharge permit](#)s may be transferred to a new owner or operator only if the permittee gives at least ~~30~~ [fifteen](#) days advance notice to the Control Authority and the Control Authority approves the [industrial wastewater discharge permit](#) transfer. The notice to the Control Authority must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing [industrial wastewater discharge permit](#).

(b) Failure to provide advance notice of a transfer renders the [industrial wastewater discharge permit](#) void as of the date of facility transfer.

**Sec. 54 - 562. Industrial wastewater discharge permit revocation**

(a) The Control Authority may revoke an [industrial wastewater discharge permit](#) for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Control Authority of changed conditions pursuant to section ~~54-597~~[118-506](#) of this Article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the [industrial wastewater discharge permit](#) application;
- (4) Falsifying self-monitoring reports [and certification statements](#);
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Control Authority timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or [an industrial wastewater discharge permit](#) application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the [industrial wastewater discharge permit](#) or this Article.

(b) [Industrial wastewater discharge permits](#) shall be voidable upon cessation of operations or transfer of business ownership. All [industrial wastewater discharge permits](#) issued to a particular User are void upon the issuance of a new [industrial wastewater discharge permit](#) to that User.

**Comment [pnb100]:** EPA M SUO 5.6

**Comment [GA101]:** Make sure this enforcement option is mentioned in your Program's ERP "Guide" matrix.

**Comment [PNB102]:** EPA M SUO 6.5

**Sec. 54 - 563. Industrial ~~User~~ wastewater discharge permit reissuance**

A User with an expiring [industrial wastewater discharge permit](#) shall apply for an [industrial wastewater discharge permit](#) reissuance by submitting a complete application, in accordance with Section 118-465 of this Article, a minimum of 90 days prior to the expiration of the User's existing [industrial wastewater discharge permit](#).

**Comment [PNB103]:** EPA M SUO 5.7

**Sec. 54 - 564. Regulation of waste received from other jurisdictions**

**Comment [PNB104]:** EPA M SUO 5.8



- (a) If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Control Authority shall enter into an intermunicipal agreement with the contributing municipality.
- (b) Prior to entering into an agreement required by paragraph A, the Control Authority 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;
  - (3) Such other information as the Control Authority may deem necessary.
- (c) An intermunicipal 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 Article and local limits which are as stringent as those adopted by the City. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance and 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 industrial 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 Control Authority; and which of these activities will be conducted jointly by the contributing municipality and the Control Authority.
  - (4) A requirement for the contributing municipality to provide the Control Authority 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 Control Authority 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 Control Authority; and
  - (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

**DIVISION 7.**

**REPORTING REQUIREMENTS**

**Comment [pnb105]:** EPA M SUO 6

**Sec. 54 - 592. Industrial User survey**

When requested by the Control Authority, a User must submit information on the nature and characteristics of its wastewater by completing an industrial User survey ~~(IUS)~~ prior to commencing their discharge. The Control Authority is authorized to prepare a form for this purpose and may periodically require Users to update this information. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial User and shall be considered a violation of the Article.

**Sec. 54 - 593. Baseline monitoring reports**

Comment [pnb106]: EPA M SUO 6.1

(a) Within either 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 Users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report which contains the information listed in paragraph b, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical Users subsequent to the promulgation of an applicable categorical standard, shall submit to the Control Authority 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. All information required in section 54-537 (a)(1)a., section 54-537 (a)(2), section 54-537 (a)(3)a., and section 54-537 (a)(6).~~

~~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 operations carried out by such user. This description should include a schematic process diagram that 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. The User shall provide the information required in section 54-537 (a)(7)a. through d.~~

~~b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by [the Superintendent], of regulated pollutants in the discharge from each regulated process.~~

~~c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.~~

~~d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section [analytical requirements] of this Article. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the [Superintendent] or the applicable Standards to determine compliance with the Standard.~~

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

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

gd. Sampling and analysis shall be performed in accordance with section 54-602;

he. 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;

if. 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 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.

(74) 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 ~~See section 54-594118-503~~ of this Article.

(85) Signature and certification. All baseline-monitoring reports must be signed and certified in accordance with sections ~~118-46654-538~~ of this Article and signed by an Authorized Representative as defined in section 54-390.

**Sec. 54 - 594118-503.**

**Compliance schedule progress reports**

Comment [pnb107]: EPA M SUO 6.2

The following conditions shall apply to the compliance schedule required by section ~~54-593118-502(b)(74)~~ of this Article:

- (1) 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);
- (2) No increment referred to above shall exceed nine ~~9~~ months;
- (3) The User shall submit a progress report to the Control Authority no later than 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
- (4) In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

**Sec. 54 - 595.**

**Reports on compliance with categorical pretreatment standard deadline**

Comment [pnb108]: EPA M SUO 6.3

Within 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 Control Authority a report containing the information described in Section ~~54-593118-502(b)(4-56)~~ of this Article. 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 ~~54-538118-466~~ of this Article.

**Sec. 54 - 596.**

**Discharge monitoring reports (DMRs) or periodic compliance reports**

Comment [pnb109]: EPA M SUO 6.4

- (a) Except as specified in section 54-596(c), All significant industrial users (SIUs) shall must, at a frequency determined by the Control Authority but in no case less than twice per year (in June and December), submit a report indicating the nature, concentration, ~~and mass~~ of pollutants in the discharge which are limited by pretreatment standards. ~~The report shall~~

~~contain and~~ the measured or estimated daily flows for the reporting period. The reports must comply with the record keeping requirements of section 54-605.  ~~monitoring date(s) and analysis result for the reporting period.~~ ~~If the significant industrial user's limits are based on categorical production rates then the user shall also submit the average production rate for the reporting period.~~ In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User.

(b) All discharge monitoring reports must be signed and certified in accordance with section 118-46654-538 of this Article.

(c) All wastewater discharge samples must be representative of the User's discharge and performed in accordance with Section 118-51154-602 of this Article. 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.

(d) If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in section 11854-512-603 of this Article, the results of this monitoring shall be included in the report.

(e) All analytical results and chains of custody shall be submitted to the Control Authority on or before the 15th of the month following the monitoring period.

(f) Users that send electronic (digital) documents to the Control Authority to satisfy the requirements of this Section must comply with all electronic reporting requirements as specified in 40 CFR Part 3 - (Electronic reporting) and the Specific Conditions Section of the industrial wastewater discharge permit issued.

#### **Sec. ~~118-50654 - 597.~~**

#### **Reports of changed conditions**

Each User must notify the Control Authority 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 90 days before the change.

(1) The Control Authority may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an industrial wastewater discharge permit application under section 118-465-54-537 of this Article.

(2) The Control Authority may issue an industrial wastewater discharge permit under section 54-539118-467 of this Article or modify an existing industrial wastewater discharge permit under section 54-560118-484 of this Article in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater, a significant increase or decrease in the discharge of previously reported pollutants and the discharge of any previously unreported pollutants.

Comment [PNB110]: EPA M SUO 6.5

**Sec. ~~118-50754 - 598.~~**

**Reports of potential problems**

**Comment [PNB111]:** EPA M SUO 6.6

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the User shall immediately telephone and notify the Control Authority 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) Within five (5) days following such discharge, the User shall, unless waived by the Control Authority, 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 Article.

(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 subsection (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant Industrial Users are required to notify the Control Authority immediately of any changes at its facility affecting the potential for a Slug Discharge.

**Comment [PNB112]:** Req Streamlining Rule Change

**Sec. ~~118-50854 - 599.~~**

**Reports from unpermitted users**

All Users not required to obtain an industrial wastewater discharge permit shall provide appropriate reports to the Control Authority as the Control Authority may require.

**Sec. 54 - ~~600118-509.~~**

**Notice of violation/repeat sampling and reporting**

**Comment [pnb113]:** EPA M SUO 6.8

If sampling performed by a User indicates a violation, the User must notify the Control Authority within 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 Control Authority within 30 days after becoming aware of the violation. The User is not required to resample if the Control Authority monitors at the User's facility at least once a month, or if the Control Authority samples between the User's initial sampling and when the User receives the results of this sampling.

**Sec. ~~118-51054 - 601.~~**

**Notification of the discharge of hazardous waste**

(a) Any User who commences the discharge of hazardous waste shall notify the POTW, 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 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 12 months. All notifications must take place no later than 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 ~~118-50654-597~~ of this Article. 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 ~~118-50254-593~~, ~~118-50454-595~~, and ~~118-50554-596~~ of this Article.

(b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than 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 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 Control Authority, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, 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 Article, a permit issued thereunder, or any applicable Federal or State law.

**Sec. ~~118-51154 - 602~~.**

**Analytical requirements**

All pollutant analyses, including sampling techniques, to be submitted as part of an industrial ~~wastewater discharge~~ permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 ~~and amendments thereto~~, 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, ~~or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question,~~ sampling and analyses ~~must~~ shall be performed ~~by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority or other parties~~ ~~in accordance with procedures~~ approved by EPA.

Comment [GA114]: typo

**Sec. ~~118-51254 - 603~~.**

**Sample collection**

Comment [pnb115]: EPA M SUO 6.11

(a) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(Ab) Except as indicated in Section ~~B(c) and (d)~~, below, the User must collect wastewater samples using flow proportional composite collection techniques. The sampler must be active during the entire discharge time period, whether the flow is continuous or intermittent, but should not sample longer than 24-hours. In the event flow proportional sampling is infeasible, the Control Authority may authorize the use of time proportional sampling ~~or a minimum of 4 grab samples~~ where the User demonstrates that this will provide a representative sample of the effluent being discharged. Using protocols (including appropriate preservation) specified in 40 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 Control Authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

**Comment [pnb116]:** EPA M SUO 6.11 required streamlining rule change. See 40 CFR 403.12(g)(3).

(c) Samples for oil and grease, temperature, pH, sulfides, cyanide, phenol, and volatile organic compounds must be obtained using grab collection techniques.

(d) For sampling required in support of baseline monitoring and 90-day compliance reports required in sections 54-593 and 54-595 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, 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 Superintendent] may authorize a lower minimum. For the reports required by paragraphs section 54-596 (40 CFR 403.12(e) and 403.12(h)), the industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

**Comment [pnb117]:** EPA M SUO 6.11 required streamlining rule change. See 40 CFR 403.12(g)(4).

**Sec. ~~118-51354 - 604.~~ ~~Timing~~Date of receipt of reports**

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.

**Sec. ~~54 - 605~~~~118-514.~~ Record keeping**

Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Article 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 54-449(g). 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 3 years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the Control Authority has specifically notified the User of a longer retention period.

**Comment [pnb118]:** EPA M SUO 6.13 required streamlining rule change.



**Sec. 54 - 606. Certification statements**

The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with sections 54-537 and 54-538; Users submitting baseline monitoring reports under section 54-593; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under section 54-595; Users submitting periodic compliance reports required by section 54-596;. The following certification statement must be signed by an Authorized Representative as defined in section 54-390:

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.

Comment [pnb119]: EPA M SUO 6.14

Comment [PNB120]: Was 54-387

**DIVISION 89. COMPLIANCE MONITORING**

**Sec. 54 - 629118-531. Right of entry: inspection and sampling**

The Control Authority shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Article and any industrial wastewater discharge permit or order issued hereunder. Users shall allow the Control Authority 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.

(A1) 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 Control Authority will be permitted to enter without delay for the purposes of performing specific responsibilities.

(B2) The Control Authority shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct independent sampling and/or metering of the User's operations.

(C3) The Control Authority 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 a frequency that ensures their accuracy. All flow devices shall be calibrated by a certified technician at least once a year at a frequency to verify accuracy and reliability of measurements in accordance with the ISCO Open Channel Flow Measurement Handbook, 4<sup>th</sup> Edition or later.

(D4) 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

Comment [pnb121]: EPA M SUO 7

Comment [pnb122]: EPA M SUO 7.1

Comment [pnb123]: Best approach, "certified technicians" just show up with a cheap ruler.

request of the Control Authority and shall not be replaced. The costs of clearing such access shall be born by the User.

(E5) Unreasonable delays in allowing the Control Authority access to the User's premises shall be a violation of this Article.

**Sec. ~~118-53254~~ - 630.**

**Search warrants**

Comment [pnb124]: EPA M SUO 7.2

If the Control Authority 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 Article, 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 Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Control Authority may seek issuance of a search warrant from the court of appropriate jurisdiction.

**DIVISION ~~109~~.**

**CONFIDENTIAL INFORMATION**

Comment [pnb125]: EPA M SUO 8

**Sec. ~~54-649118-551~~.**

**Confidential information**

Information and data on a User obtained from reports, surveys, industrial User permit applications, industrial User permits, and monitoring programs, and from the Control Authority'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 Control Authority, 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.

**DIVISION ~~110~~.**

**PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE**

Comment [pnb126]: EPA M SUO 9

**Sec. ~~54-561572~~.**

**Publication of users in significant noncompliance**

The Control Authority 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 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant Industrial Users (or any other industrial User that violates paragraphs (3), (4) or (8) of this Section) and shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six (6) month period exceed, by any

~~amount~~~~magnitude~~, a numeric Pretreatment Standard or Requirement, including instantaneous ~~Limits~~~~limits~~, as defined in Division 1;

(2) Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a ~~6-six~~ (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by Division 1, multiplied by the applicable criteria (1.4 for CBOD, TSS, ~~fats~~, oils and grease, ammonia (NH3-N), total phosphorus (T-P) and 1.2 for all other pollutants except pH);

(3) Any other discharge violation of a pretreatment standard or requirement as defined by ~~Section~~Division 1 (instantaneous, daily maximum or, long term monthly average, ~~instantaneous~~ limit, or narrative standard) that the Control Authority believes has caused, alone or in combination with other discharges, interference, overloading or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an industrial wastewater discharge~~user~~ permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within 30 [45] days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, discharge monitoring reports (DMRs), and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of Best Management Practices, that the Control Authority determines will adversely affect the operation or implementation of the ~~local~~ Pretreatment Program.

## **DIVISION ~~1211~~. ADMINISTRATIVE ENFORCEMENT REMEDIES**

Comment [pnb127]: EPA M SUO 10

### **Sec. ~~118-57154 - 703~~. Notice of violation**

Comment [pnb128]: EPA M SUO 10.1

When the Control Authority finds that a User has violated, or continues to violate, any provision of this Article, an industrial wastewater discharge~~user~~ permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may serve upon that User a written notice of violation (NOV). Within 15 days of the receipt of this 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 Control Authority. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the NOV. Nothing in this section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, without first issuing a NOV.

**Sec. ~~118-57254 - 704.~~**

**Consent orders**

Comment [pnb129]: EPA M SUO 10.2

The Control Authority may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections ~~118-57454-706~~ and ~~118-57554-707~~ of this Article and shall be judicially enforceable.

**Sec. ~~118-57354 - 705.~~**

**Show cause orderhearing**

Comment [pnb130]: EPA M SUO 10.3

The Control Authority may order a User which has violated, or continues to violate, any provision of this Article, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Control Authority 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 15 days prior to the hearing. Such notice may be served on any authorized representative of the User. A show cause order shall not be a bar against, or prerequisite for, taking any other action against the User.

**Sec. ~~118-57454 - 706.~~**

**Compliance orders**

Comment [pnb131]: EPA M SUO 10.4

When the Control Authority finds that a User has violated, or continues to violate, any provision of this Article, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. The Control Authority may require the development and approval of a compliance schedule by the User for the installation of technology required to meet applicable pretreatment standards and requirements. If a compliance schedule is required the User shall submit all self-monitoring reports and compliance summaries as required by the Control Authority and as listed in Section ~~118-50454-595~~. 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 sanitary sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

**Sec. ~~118-57554 - 707.~~**

**Cease and desist orders**

Comment [pnb132]: EPA M SUO 10.5

When the Control Authority finds that a User has violated, or continues to violate, any provision of this Article, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the Control

Authority may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

**Sec. ~~118-576~~54 - 708.**

**Administrative fines**

**Comment [pnb133]:** EPA M SUO 10.6

(a) When the Control Authority finds that a User has violated, or continues to violate, any provision of this Article, a industrial User permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may fine such User in an amount not to exceed \$1,000 per violation per day. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines, and penalties shall, after ~~fifteen (15)~~ calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 5% per month. A lien against the User's property will be sought for unpaid charges, fines, and penalties.

**Comment [pnb134]:** Was 5

**Comment [pnb135]:** Fayetteville does not include this clause

(c) Users desiring to dispute such fines must file a written request for the Control Authority to reconsider the fine along with full payment of the fine amount within ~~30~~ days of being notified of the fine. Where a request is made, the Control Authority shall convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Control Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

**Comment [pnb136]:** Fayetteville is 10 days

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

**Sec. ~~118-577~~54 - 709.**

**Emergency suspension**

After informal notice to the User the Control Authority may immediately suspend a User's discharge 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. After notice and an opportunity to respond the Control Authority may also immediately suspend a User's discharge that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (1) 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 Control Authority 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 Control Authority may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings in Section ~~118-578~~54-710 of this Article are initiated against the User.

(2) 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 Control Authority 5 days prior to the date of any show cause or termination hearing under sections ~~118-57354-705~~ or ~~118-57854-710~~ of this Article.

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

**Sec. ~~118-57854 - 710.~~**

**Termination of discharge**

Comment [pnb137]: EPA M SUO 10.8

In addition to the provisions in section ~~118-48654-562~~ of this Article, any User who violates the following conditions is subject to discharge termination:

- (1) Violation of industrial ~~wastewater discharge user~~ permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the pretreatment standards in Division 2 of this Article.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section ~~118-57354-705~~ of this Article why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to, or a prerequisite for, taking any other action against the User.

**DIVISION 13. JUDICIAL ENFORCEMENT ACTIONS**

Comment [pnb138]: EPA M SUO 11

**~~Sec. 118-591. Judicial Enforcement~~**

~~—The Control Authority may take formal judicial enforcement actions against a user who has violated, or continues to violate, any provision of this article, industrial user permit, or order issued hereunder, or any other pretreatment standard or requirement. Judicial enforcement actions are civil litigation (consent decree, injunction, civil penalties) and/or criminal prosecution.~~

**Sec. ~~118-59254 - 735.~~**

**Consent decree**

Comment [pnb139]: Not in EPA M SUO

The Control Authority may file suite against a User who has violated, or continues to violate, any provision of this Article, an industrial ~~wastewater discharge user~~ permit, or order issued hereunder, or any other pretreatment standard or requirement. If the noncompliant User acknowledges and is willing to correct the noncompliance and agrees on the penalty, the Control Authority may enter into a consent decree or settlement agreement in lieu of a trial.

**Sec. ~~118-59354 - 736.~~**

**~~Injunction~~ Injunctive relief**

**Comment [pnb140]:** EPA M SUO 11.1

When the Control Authority finds that a User has violated, or continues to violate, any provision of this Article, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may petition the appropriate court of jurisdiction through the City's aAttorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater discharge permit, order, or other requirement imposed by this Article on activities of the User. The Control Authority 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.

**Sec. ~~118-59454 - 737.~~**

**Civil penalties**

**Comment [pnb141]:** EPA M SUO 11.2

(a) A User who has violated, or continues to violate, any provision of this Article, an industrial wastewater discharge~~a industrial user~~ 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 Control Authority 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 [Rogers Department District 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 User 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.

**Sec. ~~118-59554 - 738.~~**

**Criminal prosecution**

**Comment [pnb142]:** EPA M SUO 11.3

(a) A User who willfully or negligently violates any provision of this Article, an industrial wastewater discharge~~a industrial user~~ 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 \$1000 per violation, per day, or imprisonment for not more than 30 days, or both.

**Comment [pnb143]:** Leave at 30 or change? (Fayetteville does not have imprisonment here or below in (b))

(b) A User who willfully or 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 \$1000 per violation per day, or be subject to imprisonment for not more than 30 days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

**Comment [pnb144]:** See above

(c) A User who 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 Article, industrial User permit, or order issued hereunder, or who falsifies, tampers with, or

knowingly renders inaccurate any monitoring device or method required under this Article shall, upon conviction, be punished by a fine of not more than \$1000 per violation, per day, or imprisonment for not more than 30 days, or both.

Comment [pnb145]: See 54-738(a) comment

(d). In the event of a second conviction, a User shall be punished by a fine of not more than \$1000 per violation, per day, or imprisonment for not more than 30 days, or both.

Comment [pnb146]: See 54-738(a) comment

**Sec. 54-739118-596. Remedies nonexclusive**

Comment [pnb147]: EPA M SUO 11.4

The remedies provided for in this Article are not exclusive. The Control Authority 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 Control Authority may take other action against any User when the circumstances warrant. Further, the Control Authority is empowered to take more than one enforcement action against any noncompliant User.

**DIVISION 14. SUPPLEMENTAL ENFORCEMENT ACTION**

Comment [pnb148]: EPA M SUO 12

**Sec. 54-762118-611. Public notices**

Comment [pnb149]: Not in EPA M SUO 12. Already mentioned in Division 11. Some Cities take an 1/8 of a page add to list SNC users. More eye catching than legal section.

~~The Control Authority will annually publish in the largest daily newspaper a list of those Users that during the past pretreatment year were in significant noncompliance, as defined in section 54-390, with applicable pretreatment requirements. The public notice complies with the public participation requirement of 40 CFR Part 25 in the enforcement of national pretreatment standards.~~

Comment [GA150]: Suggest deleting section. I'm not finding anything in 40 CFR 25. You already have this enforcement action mentioned above.

**Sec. 54-763118-612. Increased monitoring and reporting**

Comment [pnb151]: Not in EPA M SUO 12 but helps when User has a negative response to increased monitoring.

The Control Authority may require additional monitoring and reporting to any User who has failed to comply with any provision of this Article, a ~~current or~~ previous industrial ~~wastewater discharge~~user permit, or order issued hereunder, or any other pretreatment standard or requirement, until a specific problem is corrected or consistent compliance is demonstrated. The additional monitoring may either be self-monitoring and/or compliance monitoring.

**Sec. 54-764118-613. Liability insurance**

Comment [pnb152]: EPA M SUO 12.3

The Control Authority may decline to issue or reissue an industrial ~~wastewater discharge~~user permit to any User who has failed to comply with any provision of this Article, a previous industrial User permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

**Sec. 54-765118-614. Water supply severance**

Comment [pnb153]: EPA M SUO 12.5



Whenever a User has violated or continues to violate any provision of this Article, an industrial wastewater discharge user permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the User may be severed. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

**DIVISION 15. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**Comment [pnb154]:** EPA M SUO 13

**Sec. 54 - 784118 - 631. Upset**

**Comment [pnb155]:** EPA M SUO 13.1

(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. ~~40 CFR 403.16(a)~~.

**Comment [pnb156]:** 40 CFR citation not in EPA M SUO

(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 Control Authority orally within 24 hours and in writing within 5 days of becoming aware of the upset:
  - 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.

**Sec. 54 - 785118 - 632. Prohibited discharge standards**

**Comment [pnb157]:** EPA M SUO 13.2

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section ~~118-38154-414~~ of this Article or the specific prohibitions in sections ~~118-38254-415~~(b)(3) through ~~(247)~~ and Sections ~~118-382(b)(9) through (27)~~ of this Article 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.

**Sec. ~~54-786118-633~~.**

**Bypass**

Comment [pnb158]: EPA M SUO 13.3

- (a) For the purposes of this section,
  - (1) ~~The term~~ "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.
  - (2) ~~The term~~ "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) **Bypass notification**
  - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the control authority at least ten days before the date of the bypass, if possible.
  - (2) A user shall submit oral notice to the control authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five 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 control authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (d) **Bypass enforcement ~~action~~**
  - (1) Bypass is prohibited, and the Control Authority 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 subsection (c) of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in subsection (d)(1) of this section.

## **DIVISION 16. MISCELLANEOUS PROVISIONS**

**Comment [pnb159]:** EPA M SUO 15

### **Sec. ~~118-65154 - 811.~~ Pretreatment charges and fees**

**Comment [pnb160]:** EPA M SUO 15.1

The Control Authority may adopt reasonable fees for reimbursement of costs of setting up and operating the Pretreatment Program that may include:

- (1) Fees for industrial User permit applications including the cost of processing such applications;
- (2) 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;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and
- (5) 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 Article and are separate from all other fees, fines, and penalties chargeable by the City.
- (6) Surcharge fees for high strength conventional pollutants are covered under Sec. 54 – 206 – Sewer surcharges (Article IV of this Chapter).

### **Sec. ~~118-65254 - 812.~~ Severability**

**Comment [pnb161]:** EPA M SUO 15.2

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