

EXHIBIT A

Section 60 – Article 1

Sec. 60-95. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Approval Authority – Missouri Department of Natural Resources

Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation:

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

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit [or general permit {optional}] 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 a 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 City].

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 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 materials storage

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the city sewer or other place of disposal.

Categorical standard means any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with section 307(b) and (c) of the Federal Clean Water Act, 33 USC 1251 et seq., which applies to a specific category of industrial user.

Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

City – means the City of Sedalia, Missouri

City sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by the public authority.

Combined sewer means a sewer receiving both surface runoff and wastewater.

Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, 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.

Director means the director of public works of the city or his authorized agent or representative.

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

Existing Source. Any source of discharge that is not a “New Source.”

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Grab Sample. A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes

Industrial user means an industrial manufacturing process, trade, or business which generates water-carried wastes and is a source for the introduction of nondomestic pollutants into the wastewater facilities.

Industrial wastes means the liquid and water carried wastes from industrial manufacturing processes as distinct from domestic wastewater.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of [the City’s] NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, 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 Limit. Specific discharge limits developed and enforced by [the City] upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

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

Monthly Average. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

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

National pretreatment standard means any regulation containing pollutant discharge limits promulgated by Environmental Protection Agency (EPA) in sections 307(b) and (c) of the Federal Clean Water Act, 33 USC 1251 et seq., applicable to industrial users; the term "national pretreatment standard" includes the general and specific prohibitions found in 40 CFR 403.5 and in [section 60-195](#).

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

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 began after the publication of the proposed pretreatment standards pursuant to section 307(c) of the Federal Clean Water Act, 33 USC 1251 et seq. which will apply to the facility if the standards thereafter are promulgated, provided that:

a.

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

b.

The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c.

The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2)

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(3)

Construction of a new source as defined under this subsection (3) has commenced if the owner or operator has begun, or caused to begin, as part of a continuous onsite construction program:

a.

Any placement, assembly, or installation of facilities or equipment;

b.

Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

c.

Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time.

Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection (3) of this definition.

NPDES means National Pollutant Discharge Elimination System.

Pass through means a discharge that exits the wastewater facility to waters of the United States in quantities or concentrations which alone or in conjunction with other discharges, causes a wastewater facility NPDES permit violation.

Person means any individual, firm, company, association, society, corporation, group or governmental entity or political subdivision.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rocks, sand, cellar, dirt, and industrial, municipal, and agricultural waste discharged into water.

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

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

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging such pollutants into the wastewater facilities.

Pretreatment requirement means any substantive or procedural pretreatment requirement, other than a national pretreatment standard, imposed on an industrial user.

Prohibited discharges means:

(1)

Pollutants which create a fire or explosion hazard in the POTW including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21;

(2)

Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(3)

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

(4)

Any trucked or hauled pollutants, except at discharge points designated by the POTW.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Sanitary sewer means a sewer that carries liquid and water-carried wastes and to which stormwater, surface water and groundwater are not intentionally admitted.

Sewage means the spent water of a community. The term "wastewater" is the preferred term.

Sewer means a pipe or conduit for carrying wastewater or drainage water.

Significant industrial user means any industrial user of the city's wastewater facilities who:

- (1) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N1;
- (2) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary noncontact cooling and boiler blow down wastewater);
- (3) Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW; or
- (4) Has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Slug means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than three times the average 24-hour concentration or flows during normal operation.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary 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.

Standard industrial classification (SIC) means a classification contained in the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm drain or storm sewer means a sewer which carries stormwater, surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

User or industrial user means a source of indirect discharge.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

Wastewater contribution permit means a permit as described in [section 60-131](#).

Wastewater facilities means the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment plant means an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes the term "wastewater treatment plant" is used synonymously with the term "waste treatment plant," "wastewater treatment works," "water pollution control plant" or "sewage treatment plant."

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Abbreviations

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

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – *Code of Federal Regulations*
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
IU – Industrial User
mg/l – milligrams per liter

NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

Sec. 60-96. - Declaration of necessity. 

(a)

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the city to:

(1)

Prevent the introduction of pollutants into the city wastewater facilities which will interfere with the operation of the wastewater facilities or contaminate the resulting sludge;

(2)

Prevent the introduction of pollutants into the city wastewater facilities which will pass through the facilities, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the wastewater facilities;

(3)

Improve the opportunity to recycle and reclaim wastewater and sludge from the wastewater facilities; and

(4)

Provide for the equitable assessment of charges to all users, who contribute wastewater to the city wastewater facilities. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such city wastewater facilities.

(b)

This article enables the city to comply with all applicable state and federal laws required by the Federal Clean Water Act, 33 USC 1251 et seq. of 1977 or any subsequent amendments thereto and the general pretreatment regulations (40 CFR 403).

Sec. 60-97. - Powers and authority of inspectors. 

(a)

The director of public works or his designee 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 wastewater discharge permit or order issued hereunder. Users shall allow the director 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.

(1)

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 director will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2)

The director or his designee shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3)

The director or his designee 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 semiannually to ensure their accuracy.

(4)

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be born by the user.

(5)

Unreasonable delays in allowing the director access to the user's premises shall be a violation of this article.

(b)

While performing the necessary work on private properties referred to in subsection (a) of this section, the director or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the user and the user shall be held harmless from injury or death to the city employees and the city shall indemnify the user against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out of the gauging and

sampling operation, except as such may be caused by negligence or failure of the user to maintain safe conditions as required in section 23-7(g).

(c)

The director and other duly authorized employees of the city, state and United States Environmental Protection Agency bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Sec. 60-98. - Violations.

(a)

It shall be a violation of this article to knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or to a wastewater contribution permit, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or other component of the wastewater facilities.

(b)

Any person found to be violating any provision of this article shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit, established by the director, for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(c)

In cases of repeated violations, failure to notify the POTW of any new, increased or changes in nature of the discharge when the discharge does not meet applicable pretreatment standards or when the discharge would cause the POTW to violate its NPDES permit; or in order to atop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the director may revoke the offender's wastewater contribution permit and effect the discontinuation of the sewer service. The city shall reinstate the wastewater contribution permit and/or sewer service upon proof of the elimination of the noncomplying discharge. A detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city by the user within 15 days of the occurrence.

(d)

Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation. In addition, the city attorney or his designee, may commence an action for appropriate legal and/or equitable relief in the county circuit court.

(e)

The city shall annually publish in any legal newspaper a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" means:

(1)

A violation that remains uncorrected 45 days after notification or noncompliance;

(2)

A violation that is part of a pattern of noncompliance over a 12-month period;

(3)

A violation that involves failure to accurately report noncompliance by the industrial user;

(4)

A violation that resulted in the city having to immediately suspend service to an industrial user;

(5)

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

(6)

Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(7)

Any other discharge violation that the director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(8)

Any discharge of pollutants that have caused imminent endangerment to the public or to the environment, or have resulted in the director's exercise of its emergency authority to halt or prevent such a discharge;

(9)

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

(10)

Failure to provide within 45 days after the due date, any required reports, including a baseline monitoring report, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(11)

Failure to accurately report noncompliance; or

(12)

Any other violations which the director determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 60-99. - Acting director if office is vacant or abolished. 

If the office of director is vacant or abolished the mayor, with advice and consent of council, will appoint an acting director.

Sec. 60-100. - Sewer repairs to private service lines located in the city's public right-of-way. 

Although a sewer service lateral is the responsibility of the property owner from the building to the city's sewer main, the city may make repairs to the service line that is within the public right of way during the course of repairs to the city's main or investigating possible problems with the city's main. For example, when sinkholes form in or very close to the city's right of way or sewer main easement it becomes difficult to determine exactly where the problem causing the sinkhole may be. In those cases the city may choose to excavate the sinkhole to determine the cause. If the cause is with the city's main, the city will make necessary repairs. If the problem lies with the property owners service line the city may make the repairs to the service line that is within the public right of way to prevent leaving the excavation open and causing a possible hazard.

The city may also make repairs to private service lines within the public right of way for the city's convenience during repairs to the city's main.

Sec. 60-101 – Reporting Requirements

Baseline Monitoring Reports

Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Director a report which contains the information listed in this Ordinance, 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.

Users described above shall submit the information set forth below.

- (1) All information required in the Ordinance
 - (1) Measurement of pollutants.
 - a. The User shall provide the information required in this Ordinance.
 - b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - c. 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 waste stream 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;
 - d. Sampling and analysis shall be performed in accordance with this Ordinance.
 - e. The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- (2) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in this Ordinance 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.

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

(4) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with this ordinance and signed by an Authorized Representative as defined in this Ordinance.

Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by this ordinance:

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

B. No increment referred to above shall exceed twelve (12) months;

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

D. In no event shall more than six (6) months elapse between such progress reports to the Director.

Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to [the Superintendent] a report containing the information described in ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures 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 this ordinance. All sampling will be done in conformance with requirements of this Ordinance.

Periodic Compliance Reports

All SIUs are required to submit periodic compliance reports even if they have been designated a Non-Significant Categorical Industrial User under the provisions of the Ordinance

All periodic compliance reports must be signed and certified in accordance with certifications described in this ordinance.

All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in this ordinance, the results of this monitoring shall be included in the report.

Users that send electronic (digital) documents to the City to satisfy the requirements of this Section must: [specify POTW requirements for IU submittal of electronic reports here.

Reports of Changed Conditions

Each User must notify the Director of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least [_thirty_ (30)] days before the change.

Reports of Potential Problems

In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Director 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.

Within five (5) days following such discharge, the User shall, unless waived by the Director, 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 might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

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

Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

Notice of Violation/Repeat Sampling and Reporting

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

Notification of the Discharge of Hazardous Waste

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 one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.

Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non acute 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.

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 Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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.

This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable Federal or State law.

Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 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 shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the [Superintendent] or other parties approved by EPA.

Sample Collection

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

Users must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by [the City], the samples must be representative of the discharge. 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 City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [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 Director may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (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.

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.

Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, 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 this Ordinance. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Director.

Sec. 60-102 – Right of Entry

Right of Entry: Inspection and Sampling

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

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 Director shall be permitted to enter without delay for the purposes of performing specific responsibilities.

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

The Director 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 annually to ensure their accuracy.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.

Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this ordinance.

Search Warrants

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

Sec.. 60-103 CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from 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 Director, 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 at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

Sec 60 -104 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City, a list of the Users which, at any time during the previous twelve (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 (C), (D) or (H) of this Section) and shall mean:

Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in this Ordinance

Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined in this Ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH)

Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) the Director 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;

Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director exercise of its emergency authority to halt or prevent such a discharge;

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

Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical

Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

Failure to accurately report noncompliance; or

Any other violation(s), which may include a violation of Best Management Practices, which [the Superintendent] determines will adversely affect the operation or implementation of the local pretreatment program.-

Sec. 60- 105 - ADMINISTRATIVE ENFORCEMENT REMEDIES

Notification of Violation

When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may serve upon that User a written Notice of Violation. Within [fourteen (14)] days of the receipt of such 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 Director. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Consent Orders

The Director may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall 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 this ordinance and shall be judicially enforceable.

Show Cause Hearing

The Director may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Director 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 [seven (7) days prior to the hearing. Such notice may be

served on any Authorized Representative of the User as defined in this Ordinance. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

Compliance Orders

When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, 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.

Cease and Desist Orders

When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual 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 Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. 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.

Administrative Fines

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

Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within seven_ (7) days of being notified of the fine. Where a request has merit, the Director may 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 Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

Emergency Suspensions

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

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 Director 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 Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of [the Superintendent] that the period of endangerment has passed, unless the termination proceedings in this Ordinance are initiated against the User.

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 Director prior to the date of any show cause or termination hearing under this ordinance.

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

Termination of Discharge

In addition to the provisions in this ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit conditions;

- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in this ordinance.

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

Sec. 60- 106—JUDICIAL ENFORCEMENT REMEDIES

Injunctive Relief

When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may petition the Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Director 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.

Civil Penalties

A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of [insert maximum allowed under State law but not less than \$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.

The Director 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.

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

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

Criminal Prosecution

An User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than [insert maximum fine allowed under State law] per violation, per day, or imprisonment.

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

An 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 ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine or imprisonment

Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Director 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 Superintendent] may take other action against any User when the circumstances

warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

Sec. 60- 107 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Upset

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 including fines, cost and fees assessed other regulatory agencies and the City with a \$500 maximum fine per day by the City (Section 1-14). 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.

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.

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 Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

A description of the indirect discharge and cause of noncompliance;

The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

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.

Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in the Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

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

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.

Bypass

For the purposes of this Section,

(1) Bypass means the intentional diversion of waste streams from any portion of a User's treatment facility.

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

An 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 Ordinance.

Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.

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

Bypass

Bypass is prohibited, and the Director may take an enforcement action against a User for a bypass, unless

Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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

The User submitted notices as required under this Ordinance.

The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in this Ordinance.

Sec 60-108—60-126. - Reserved.