

ARTICLE 4. INDUSTRIAL PRETREATMENT

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DIVISION 1. GENERAL PROVISIONS

SECTION 22-401 PURPOSE AND POLICY.

This article sets forth uniform requirements for users of the waste-water collection and Publicly Owned Treatment Works (POTW) for the city and enables the city to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this article are:

1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
3. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
4. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
5. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
6. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and
7. To enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

This article shall apply to all industrial users of the POTW. The article authorizes the issuance of wastewater discharge permits; authorizes monitoring, and compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-402 ADMINISTRATION.

Except as otherwise provided herein, the superintendent shall administer, implement and enforce the provisions of this article.

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Any powers granted to or duties imposed upon the superintendent may be delegated by the superintendent to other city personnel.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-403 DEFINITIONS.

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

1. "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;

2. "Approval Authority" means an NPDES state with an approved State Pretreatment Program; otherwise, the appropriate Regional Administrator of the U.S. EPA, or his designee;

3. "Authorized representative of the industrial user" means:

a. If the industrial user is a corporation, authorized representative:

(1) 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;

(2) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding Twenty-five Million Dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;

c. If the industrial user is a federal, state or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or his/her designee;

d. The individuals described in subparagraphs a to c above may designate another authorized representative if the authorization is in writing, the authorization specifies the

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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;

4. "Biochemical Oxygen Demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees centigrade (20°) expressed in terms of mass and concentration [milligrams per liter (mg/l)];
5. "Categorical pretreatment standard or categorical standard" means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471;
6. "City" means the City of Muskogee or its city council;
7. "Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density;
8. "Composite sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time;
9. "Control authority" means a POTW with an approved pretreatment program or the approval authority in the absence of a POTW pretreatment program;
10. "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of the agency;
11. "Existing source" means any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act;
12. "Grab sample" means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time;
13. "Hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

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- a. Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
14. "Indirect discharge or discharge" means the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act;
15. "Industrial user" or "user" means a source of indirect discharge;
16. "Instantaneous maximum allowable discharge limit" means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discreet or composite sample collected, independent of the industrial flow rate and the duration of the sampling event;
17. "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources:
- a. Inhibits or disrupts the POTW, its treatment process or operations or its sludge processes, use or disposal; and
 - b. Therefore is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations); Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), 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 SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act;
18. "Medical waste" means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes;
19. "New source" means:
- a. 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:

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

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

(3) 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; b. 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 (a) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment; c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

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

(a) Any placement, assembly, or installation of facilities or equipment, or

(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

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

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20. "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product;
21. "Pass through" means a discharge which exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation);
22. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities;
23. "pH." means a measure of the acidity or alkalinity of a substance, expressed in standard units;
24. "Pollutant" means any dredged spoil, solid waste, incinerator residue sewage, garbage, sewage sludge, munitions, medical wastes, chemicals wastes, industrial wastes, biological materials, radio- active materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, odor);
25. "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. 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;
26. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard;
27. "Pretreatment standards" or "standards" mean prohibitive discharge standards, categorical pretreatment standards, and local limits;
28. "Prohibited discharge standards" or "prohibited standards" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 22-405 of this code;
29. "Publicly owned treatment works" or "POTW" means a "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This definition

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includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works;

30. "Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks;
31. "Sewage" means human excrement and gray water (household showers, dish washing operations, etc.);
32. "Significant industrial user" shall apply to:
 - a. Industrial users subject to categorical pretreatment standards;
 - b. Any other industrial user that:
 - (1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater;
 - (2) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
 - (3) Is designated as significant by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement;
33. "Slug load" means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 22-405 of this article or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge;
34. "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agriculture activities and from community activities but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear, or byproduct aerial as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923);
35. "Standard Industrial Classification (SIC) Code" means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget;

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36. "Storm water" means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt;
37. "Superintendent" means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article or his duly authorized representative;
38. "Suspended solids" 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;
39. "Toxic pollutant" means one of one hundred twenty-six (126) pollutants, or combination of these pollutants, listed as toxic in regulations promulgated by the EPA under the provisions of Section 307 (33 U.S.C.1317) of the Act;
40. "Treatment plant effluent" means any discharge of pollutants from the POTW into waters of the state;
41. "Uniform concentration limit" means for each pollutant, the maximum allowable industrial loading to the POTW is divided by the total flow from all industrial users, even those that do not discharge the pollutant. This allocation method results in a single discharge concentration limit for each pollutant that is the same for all users.
42. "Wastewater" means liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW; and
43. "Wastewater treatment plant" or "treatment plant" means that portion of the POTW designed to provide treatment of sewage and industrial waste.

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular by the context of its use. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92; Ord. No. 3308-A, 8/8/94)

SECTION 22-404 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

- 1.BOD-Biochemical Oxygen Demand;
- 2.CFR-Code of Federal Regulations;

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- 3.COD-Chemical Oxygen Demand;
- 4.EPA-U.S. Environmental Protection Agency;
- 5.gpd-Gallons per day;
- 6.l-Liter;
- 7.Mg-Milligrams;
- 8.Mg/l-Milligrams per liter;
- 9.NPDES-National Pollutant Discharge Elimination System
- 10.O&M-Operation and Maintenance
- 11.POTW-Publicly Owned Treatment Works;
- 12.RCRA-Resource Conservation and Recovery Act;
- 13.SIC-Standard Industrial Classifications;
- 14.SWDA-Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
- 15.TSS-Total Suspended Solids; and
- 16.USC-United States Code.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 2. GENERAL SEWER USE REQUIREMENTS

SECTION 22-405 PROHIBITED DISCHARGE STANDARDS.

- A. No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the POTW:
 - 1. Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F) (60 C) using the test methods specified in 40 CFR 261.21;
 - 2. Any wastewater having a pH less than five (5.0), or otherwise causing corrosive structural damage to the POTW or equipment, or endangering city personnel; and

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3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than two (2) inches in any dimension;

4. Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals;

5. Any wastewater having a temperature greater than one hundred forty degrees (140°) Fahrenheit, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees (104°) F (40° C);

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

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

8. Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with Section 22-419;

9. Any 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, a hazard to life, or to prevent entry into the sewers for maintenance and repair;

10. Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm or aquatic life;

11. Any wastewater containing any radioactive wastes or isotopes except a specifically approved by the superintendent in compliance with applicable state or federal regulations;

12. Storm water, surface water, ground water, artisan well water, roof runoff, sub-surface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and

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unpolluted industrial wastewater, unless specifically authorized by the superintendent;

13. Any sludge, screening, or other residues from the pretreatment of industrial wastes;

14. Any medical wastes, except as specifically authorized by the superintendent in a wastewater discharge permit;

15. Any wastewater causing the treatment plant's effluent to fail a toxicity test;

16. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW; and

17. All discharges must be free of emulsified fats, waxes, greases or oils exceeding 200 mg/l as determined by analytical procedures specified in 40 CFR, Part 136. A concentration of 500 mg/l is allowable providing the Control Authority has specifically determined that the wastes: a) derive from animal or vegetable materials; b) biodegrades readily in the POTW; c) does not cause an obstruction of flow in the sewer line; and d) the discharge is pretreated by discharge through an approved grease trap or other pretreatment process.

B. Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92; Ord. No. 3308-A, 8/8/94)

SECTION 22-406 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-407 STATE REQUIREMENTS.

Reserved. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-408 SPECIFIC POLLUTANT LIMITATIONS.

A. The following pollutant limits are established using approved technically based standards to protect against pass through and interference. No person shall discharge wastewater containing in

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excess of the following unless authorized by a permit issued by the superintendent:

1. 0.42 mg/l arsenic;
 2. 0.63 mg/l cadmium;
 3. 0.21 mg/l chromium;
 4. 0.97 mg/l copper;
 5. 0.32 mg/l cyanide;
 6. 0.44 mg/l lead;
 7. 0.009 mg/l mercury;
 8. 4.50 mg/l nickel;
 9. 0.14 mg/l silver; or
 10. 2.84 mg/l zinc.
- B. Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At his discretion, the superintendent may impose mass limitations in addition to or in place of the concentration based limitations above. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92; Ord. No. 3308-A, 8/8/94)

SECTION 22-409 CITY'S RIGHT OF REVISION.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 22-401 of this article or the general and specific prohibitions in Section 22-405 of this article.

In addition the City of Muskogee reserves the right to allocate, via permit, discharge limits above the specific pollutant limitations specified in Section 22-408. These allocations will be conducted in accordance with the procedure in the narrative section of the city's approved industrial pre-treatment program

(Sections VI.A.1 and VI.A.2.). Under no circumstances will the city allocate more than one hundred percent (100%) of the maximum allowable industrial loading for any one pollutant as determined in the technically based local limit calculations. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92; Ord. No. 3308-A, 8/8/94)

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SECTION 22-410 SPECIAL AGREEMENT.

The city reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord.No. 3239-A, 6/8/92)

SECTION 22-411 DILUTION.

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

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 3. PRETREATMENT OF WASTEWATER

SECTION 22-415 PRE-TREATMENT FACILITIES.

Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 22-405 of this code above within the time limitations specified by the EPA, the state or the superintendent, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the superintendent shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial use from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this article. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-416 ADDITIONAL PRETREATMENT MEASURES.

- A. Whenever deemed necessary, the superintendent may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this article.

- B. Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed by the owner at his expense.

- C. Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-417 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

The superintendent may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years the superintendent shall evaluate whether each significant industrial user needs such a plan.

Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- 1. Description of discharge practices, including nonroutine batch discharges;

- 2. Description of stored chemicals;

- 3. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 22-405 of this article; and

- 4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control

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of plant site run-off, worker trainer, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), or measures and equipment for emergency response.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-418 TENANT RESPONSIBILITY.

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this article.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-419 HAULED WASTEWATER.

- A. Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the superintendent, provided such wastes do not violate Division 2 of this article or any other requirements established or adopted by the city. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the superintendent.
- B. The discharge of hauled industrial wastes as "industrial septage" requires prior approval and a wastewater discharge permit from the city. The superintendent shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this article.
- C. Fees for dumping septage will be established as part of the industrial user fee system as authorized in Division 15. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-420 VANDALISM.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Divisions 10 through 12 of this article, below. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 4. WASTEWATER DISCHARGE PERMIT ELIGIBILITY

SECTION 22-425 WASTEWATER SURVEY.

When requested by the superintendent all industrial users must submit information on the nature and characteristics of their wastewater by completing wastewater survey prior to commencing their discharge. The superintendent is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. 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. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-426 WASTEWATER DISCHARGE PERMIT REQUIREMENT.

- A. It shall be unlawful for any significant industrial user to discharge wastewater into the city's POTW without first obtaining a wastewater discharge permit from the superintendent. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in divisions 10 through 12 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.
- B. The superintendent may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- C. Upon finding that an industrial user meeting the criteria in Section 22-403, paragraph 32 has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user, in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user. (Ord. No. 1998-A, 5/14/ 84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92; 3308-A, 8/8/94)

SECTION 22-427 WASTEWATER DISCHARGE PERMITTING EXISTING CONNECTIONS.

Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within sixty (60) days after the date, apply to the city for a wastewater discharge permit in accordance with Section 22-430 below, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this article except in accordance with a wastewater

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discharge permit issued by the superintendent. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-428 WASTEWATER DISCHARGE PERMITTING NEW CONNECTIONS.

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least sixty (60) days prior to the date upon which any discharge will begin. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-429 WASTEWATER DISCHARGE PERMITTING EXTRA JURISDICTIONAL INDUSTRIAL USERS.

- A. Any existing significant industrial user located beyond the city limits shall submit a wastewater discharge permit application, in accordance with Section 22-430 below, within ninety (90) days of the effective date of this article. New significant industrial users located beyond the city limits shall submit such applications to the superintendent one hundred twenty (120) days prior to any proposed discharge into the POTW.
- B. Alternately, the superintendent may enter into an agreement with the neighboring jurisdiction in which significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against the industrial user. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-430 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS.

In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by Subsection B of Section 22-445 of this article. The superintendent shall approve a form to be used as a permit application. In addition, the following information may be requested:

- 1. 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;
- 2. Number and type of employees, hours of operation, and rate of production;
- 3. Each product produced by type, amount, process or processes, and rate of production;

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4. Type and amount of raw materials processed (average and maximum per day);
5. The 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;
6. Time and duration of the discharge; and
7. Any other information as may be deemed necessary by the superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-431 APPLICATION SIGNATORIES AND CERTIFICATION.

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

"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 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."

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-432 WASTEWATER DISCHARGE PERMIT DECISIONS.

The superintendent will evaluate the data furnished by the industrial user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the superintendent will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The superintendent may deny any application for a wastewater discharge permit. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 5. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

SECTION 22-435 WASTEWATER DISCHARGE PERMIT DURATION.

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Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-436 WASTEWATER DISCHARGE PERMIT CONTENTS.

- A. Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plan's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.
- B. Wastewater discharge permits must contain the following conditions:
 - 1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
 - 2. A statement that the wastewater discharge permit is nontransferable without prior notification to (and approval from) the city, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - 3. Effluent limits applicable to the user based on applicable standards in federal, state, and local law;
 - 4. Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law; and
 - 5. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not exceed the time for compliance beyond that required by applicable federal, state, and local law.
- C. Wastewater discharge permits may contain, but need not be limited to the following:
 - 1. Limits on the average or maximum rate of discharge, time of discharge, or requirements for flow regulation and equalization;
 - 2. Limits on the instantaneous, daily and monthly average or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;

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3. 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;
4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
5. Development and implementation of water minimization plans to reduce the amount of pollutants discharged of the POTW;
6. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW;
7. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
8. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards including those which become effective during the term of the wastewater discharge permit; and
9. Other conditions as deemed appropriate by the superintendent to ensure compliance with this article, and state and federal laws, rules, and regulations.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-437 WASTEWATER DISCHARGE PERMIT APPEALS.

Any person, including the industrial user, may petition the city to reconsider the terms of a wastewater discharge permit within thirty (30) days 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 wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit;
3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal;
4. If the city fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater

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discharge permit, shall be considered final administrative action for purpose of judicial review; and

5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the district court of this county within the state's statute of limitations.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-438 WASTEWATER DISCHARGE PERMIT MODIFICATIONS.

A. The superintendent may modify the wastewater discharge permit for good cause including, but not limited to, the following:

1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

2. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorize discharge;

4. Information indicating that the permitted discharge poses a threat to the city's POTW, the city's personnel, or the receiving waters;

5. Violation of any terms or conditions of he wastewater discharge permit;

6. Misrepresentations or failure to fully disclose all relevant facts in the 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 wastewater discharge permit; and

9. To reflect a transfer of the facility ownership or operation to a new owner/operator.

B. The filing of a request by the permittee for a wastewater discharge permit modification does no stay any wastewater discharge permit condition. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-439 WASTEWATER DISCHARGE PERMIT TRANSFER.

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- A. Wastewater discharge permits may be reassigned or transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the superintendent and the superintendent approves the wastewater discharge permit transfer. The notice to the superintendent must include a written certification by the new owner or operator which:
1. States that the new owner/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 wastewater discharge permit.
- B. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-440 WASTEWATER DISCHARGE PERMIT REVOCATION.

- A. Wastewater discharge permits may be revoked for the following reasons:
1. Failure to notify the city of significant changes to the wastewater prior to the changed discharge;
 2. Failure to provide prior notification to the city of changed condition pursuant to Section 22-449 of this code;
 3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 4. Falsifying self-monitoring reports;
 5. Tampering with monitoring equipment;
 6. Refusing to allow the city 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 the wastewater discharge permit application;

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12. Failure to provide advance notice of the transfer of a permitted facility; or
 13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the article.
- B. Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-441 WASTEWATER DISCHARGE PERMIT REISSUANCE.

A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with Section 22-430 of this code a minimum of ninety (90) days prior to the expiration of the industrial user's existing wastewater discharge permit. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-442 MUNICIPAL WASTEWATER DISCHARGE PERMITS.

- A. In the event another municipality contributes all or a portion of its wastewater to the POTW, the POTW may require such municipality to apply for and obtain a municipal wastewater discharge permit. A municipal wastewater discharge permit application shall include:
1. A description of the quality and volume of the wastewater at the points where it enters the POTW;
 2. An inventory of all industrial users discharging to the municipality;
 3. Such other information as may be required by the superintendent;
- B. A municipal wastewater discharge permit shall contain the following conditions:
1. A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in Section 22-406 of this code;
 2. A requirement for the municipal user to submit a revised industrial user inventory on at least an annual basis;
 3. A requirement for the municipal user to:
 - a. Conduct pretreatment implementation activities

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including industrial user permit issuance, inspection and sampling, and enforcement; or

b. Authorize the POTW to take or conduct such activities on its behalf;

4. A requirement for the municipal user to provide the city with access to all information that the municipal user obtains as part of its pretreatment activities;

5. Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it discharges to the POTW; and

6. Requirements for monitoring the municipal user's discharge.

C. Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in Divisions 10 through 12. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 6. REPORTING REQUIREMENTS

SECTION 22-445 BASELINE MONITORING REPORTS.

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the city 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 industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in paragraph B, below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

B. The industrial user shall submit the information required by this section including:

1. Identifying information. The name and address of the facility including the name of the operator and owners;

2. Wastewater discharge permits. A list of any environmental control wastewater discharge permits held by or of the facility;

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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 industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

4. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e);

5. Measurement of pollutants:

a. Identify the categorical pretreatment standards applicable to each regulated process;

b. Submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard of the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 22-454;

c. Sampling must be performed in accordance with procedures set out in Section 22-455;

6. Certification. A statement reviewed by the industrial 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) or additional pretreatment is required to meet the pretreatment standards and requirements;

7. Compliance schedule. If additional pretreatment or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 22-430 of this article; and

8. All baseline monitoring reports must be signed and certified in accordance with Section 22-431. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-446 COMPLIANCE SCHEDULE PROGRESS REPORT.

The following conditions shall apply to the schedule required by

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paragraph 7 of Subsection B of Section 22-445. The schedule shall contain progress increments in the form of dates of 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 hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the superintendent. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-447 REPORT 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 industrial user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in paragraph 6 of Subsection B of Section 22-445. For industrial 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 industrial user's long term production rate. For all other industrial 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 industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 22-431. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord.No. 3239-A, 6/8/92)

SECTION 22-448 PERIODIC COMPLIANCE REPORTS.

- A. Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the superintendent but in no case less than twice a year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 22-431.

- B. All wastewater samples must be representative of the industrial

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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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

- C. If an industrial user subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in Section 22-455 of this article the results of this monitoring shall be included in the report. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-449 REPORT OF CHANGED CONDITIONS.

Each industrial user is required to notify the superintendent of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least twenty-one (21) days before the change.

1. The superintendent may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 22-430;
2. The superintendent may issue a wastewater discharge permit under Section 22-432 or modify an existing wastewater discharge permit under Section 22-438;
3. No industrial user shall implement the planned changed conditions until and unless the superintendent has responded to the industrial user's notice; and
4. For purposes of this requirement the discharge of any previously unreported pollutants, shall be deemed significant.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-450 REPORTS OF POTENTIAL PROBLEMS.

- A. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a noncustomary batch discharge, or a slug load which may cause potential problems of the POTW (including a violation of the prohibited discharge standards in Section 22-405 of this article), it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

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- B. Within five (5) days following such discharge, the industrial user shall, unless waived by the superintendent, submit a detailed written report describing the causes of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial use 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 industrial user of any fines, civil penalties, or other liability which may be imposed by this article.
- C. Failure to notify the city of potential problem discharges shall be deemed a separate violation of this article.
- D. A notice shall be permanently posted on the industrial 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 or suffer such a discharge to occur, are advised of the emergency notification procedure. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-451 REPORTS FROM NONSIGNIFICANT INDUSTRIAL USERS.

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the superintendent may require.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-452 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

If sampling performed by an industrial user indicates a violation, the industrial user must notify the city within twenty-four (24) hours of becoming aware of the violation.

The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the POTW performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-453 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

- A. Any industrial user who commences the discharge of hazardous

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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 industrial user discharges more than ten (10) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred 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 discharges must be submitted under Section 22-449, above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Sections 22-445, 22-447, and 22-448, above.

- B. Dischargers are exempt from the requirements of Subsection A of this section 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 industrial 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 industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this section the industrial use shall certify that it has program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

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SECTION 22-454 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-455 SAMPLE COLLECTION.

- A. Except as indicated in Subsection B, below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the superintendent may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

- B. Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-456 DETERMINATION OF NONCOMPLIANCE.

The superintendent may use a grab sample to determine noncompliance with pretreatment standards. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-457 TIMING.

Written report 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 U.S. Postal Service, the date of receipt of the report shall govern. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-458 RECORD KEEPING.

Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this article. These records shall remain available for a period of at

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least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this article, or where the industrial user has been specifically notified of a longer retention period by the superintendent. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 7. COMPLIANCE MONITORING

SECTION 22-460 INSPECTION AND SAMPLING.

- A. The city shall have the right to enter the facilities of an industrial user to ascertain whether the purpose of this article, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the superintendent or his representatives ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.
- B. Where an industrial user has security measures in force which required proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- C. The city, state and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling or metering of the user's operations.
- D. The city may require the industrial 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 industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated (periodically) to ensure their accuracy.
- E. Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected or sampled shall be promptly removed by the industrial user at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.
- F. Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this article.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

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SECTION 22-461 SEARCH WARRANTS.

If the superintendent has been refused access to a building, structure or property or any part thereof, and if the superintendent has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection 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 upon application by the city's attorney, the municipal court judge of the city shall issue a search or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched or seized on the property described. Such warrant shall be served at reasonable hours by the superintendent in the company of a uniformed police officer of the city. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 8. CONFIDENTIAL INFORMATION

SECTION 22-465 CONFIDENTIAL INFORMATION.

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction, unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial use 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. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 9. PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

SECTION 22-468 PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE.

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The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous twelve (12) months, were in significant, noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance 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 average limit for the same pollutant parameter by any amount;
2. 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-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.);
3. Any other discharge violation that the city believes has cause, along or in combination with other discharges, interference or pass though (including endangering the health of city personnel or the general public);
4. Any discharge of pollutants that has caused imminent endangerment to the public its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; and
8. Any other violations which the city determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 10-ADMINISTRATIVE. ENFORCEMENT REMEDIES

SECTION 22-470 NOTIFICATION OF VIOLATION.

Whenever the superintendent finds that any user has violated or is

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violating this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the superintendent or his agent may serve upon the user a written Notice of Violation. Within fourteen (14) 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 superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-471 CONSENT ORDERS

The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance.

Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to Sections 22-473 and 22-474 below and shall be judicially enforceable. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-472 SHOW CAUSE HEARING.

The superintendent may order any user which causes or contributes to violations of this article, wastewater discharge permits, or orders issued hereunder, or another pretreatment standard or requirement, to appear before the superintendent and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for such meeting, the proposed enforcement action, the reasons for such action, and require that the user show cause why this enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. Any show cause hearing shall not be a prerequisite for taking any other action against the user. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-473 COMPLIANCE ORDERS.

When the superintendent finds that a user has violated or continues to violate the article, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or

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requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within ninety (90) days. If the user does not come into compliance within one hundred twenty (120) days, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also 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 federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-474 CEASE AND DESIST ORDERS.

When the superintendent finds that a user is violating this article, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to re-occur, the superintendent 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 preventative action that may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-475 EMERGENCY SUSPENSIONS.

A. The superintendent may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order 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 superintendent 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:

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

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suspension order, the superintendent shall 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 of any individuals. The superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in Section 22-476 are initiated against the user; and

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 occurrences to the superintendent, prior to the date of any show cause or termination hearing under Section 22-472 and 22-476.

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

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-476 TERMINATION OF DISCHARGE.

A. In addition to those provisions in Section 22-440 of this article, any user that violates the following conditions of this article, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination:

1. Violation of wastewater discharge 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; and
5. Violation of the pretreatment standards in Division 2 of this article.

B. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 22-472 of this article why the proposed action should not be taken. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 11. JUDICIAL ENFORCEMENT REMEDIES

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SECTION 22-480 INJUNCTIVE RELIEF.

Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this article, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the superintendent may petition the district court through the city's attorney or the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the industrial user. Such other action as appropriate for legal and equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-481 CIVIL PENALTIES.

- A. Any user which has violated or continues to violate this article, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum of One Thousand Dollars (\$1,000.00) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The city may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damage incurred by the city.
- C. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing suit for civil penalties shall not be a prerequisite for taking any other action against a user. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-482 CRIMINAL PROSECUTION.

- A. Any user that wilfully or negligently violates any provision of this article, any orders or wastewater discharge permit issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more that One Thousand Dollars (\$1,000.00) per violation per day or imprisonment for not more that ninety (90) days or both.

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- B. Any user that wilfully 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 at least One Thousand Dollars (\$1,000.00) or be subject to imprisonment for ninety (90) days. This penalty shall be in addition to another cause of action for personal injury or property damage available under state law.

- C. Any user that knowingly make 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, wastewater discharge permit or order, 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 One Thousand Dollars (\$1,000.00) per violation per day or imprisonment for not more than ninety (90) days or both. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-483 REMEDIES NONEXCLUSIVE.

The provisions in divisions 9 through 12 of this article are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 12. SUPPLEMENTAL ENFORCEMENT ACTION

SECTION 22-485 PERFORMANCE BONDS.

The superintendent may decline to reissue a wastewater discharge permit to any user which failed to comply with the provisions of this article, any orders, or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed value determined by the superintendent to be necessary to achieve consistent compliance. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-486 WATER SUPPLY SEVERANCE.

Whenever a user has violated or continues to violate the provisions of this article, orders, or wastewater discharge permits issued hereunder, water service to the user may be severed. Service

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will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-487 PUBLIC NUISANCES.

Any violation of this article, wastewater discharge permits, or orders issued hereunder, which creates a condition which adversely affects the public health, is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent or his designee. Any person creating a public nuisance shall be subject to the provisions of the city code (Chapter 12) governing such nuisances, including reimbursing the city for any costs incurred in removing, abating or remedying the nuisance. The costs may be certified to the county officials so the same may be added to ad valorem taxes assessed against the property or may be added to municipal estates bills and collected in the same manner as such bills. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 13. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

SECTION 22-490 UPSET.

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection C are met.
- C. An industrial 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 industrial user can identify the causes of the upset;
 - 2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
 - 3. The industrial user has submitted the following information to the POTW and treatment plant operator within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within

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five (5) days):

- a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times of, if not corrected, the anticipated time the noncompliance is expected to continue;
 - c. Steps being taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- D. In any enforcement proceeding, the industrial user seeking to establish the occurrence of the upset shall have the burden of proof.
- E. Industrial 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. The industrial user 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 to the situation where, among other things, the primary source of power to the treatment facility is reduced, lost or fails. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

SECTION 22-491 GENERAL SPECIFIC PROHIBITIONS.

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Section 22-405 of this article if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference; or
2. 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.

(Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

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SECTION 22-492 BYPASS.

- A. For the purposes of this section:
1. "Bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility; and
 2. "Severe property damage" means substantial physical damage to property, damage to 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. An industrial 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 provisions of Subsections C through F of this section.
- C. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass if possible.
- D. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW 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 industrial 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 POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- E. Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless:
1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There was no feasible alternative 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 judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

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3. The industrial user submitted notices as required in Subsections C and D of this section.

F. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it meets the three conditions listed in Subsection E of this section. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)

DIVISION 14-SURCHARGE. COSTS

[RESERVED]

DIVISION 15-MISCELLANEOUS. PROVISIONS

SECTION 22-495 PRETREATMENT CHARGES AND FEES.

The city may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial 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.
6. Fees for filing an application to amend or modify an existing permit.

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. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92; Ord. No. 3308-A, 8/8/94)

SECTION 22-496 CITATION AND CODIFICATION.

This article shall be known and may be cited as the Industrial

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Pretreatment Article of 1992. (Ord. No. 1998-A, 5/14/84; Ord. No. 2016-A, 8/27/84; Ord. No. 3239-A, 6/8/92)