

**NOTICE OF PUBLIC HEARING
ORDINANCE No. 1830, SERIES 2022**

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Louisville, Colorado, to be held on May 17, 2022 at the hour of 6:00 p.m., at Louisville City Hall, 749 Main Street, Louisville, Colorado 80027, the City Council will hold a Public Hearing on the final passage and adoption of a proposed **AN ORDINANCE AMENDING THE SEWER USE REGULATIONS SET FORTH IN CHAPTER 13.32 OF THE LOUISVILLE MUNICIPAL CODE.**

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**ORDINANCE NO. 1830
SERIES 2022**

**AN ORDINANCE AMENDING THE SEWER USE REGULATIONS SET FORTH IN
CHAPTER 13.32 OF THE LOUISVILLE MUNICIPAL CODE**

WHEREAS, the City of Louisville ("City") is a home rule municipal corporation, duly organized and existing pursuant to the Louisville Home Rule Charter ("Charter"); and

WHEREAS, the City has authority under the Charter to adopt ordinances regulating use of the City's publicly owned sewage treatment works (the "POTW"); and

WHEREAS, City ordinances regulating use of the POTW are codified in Chapter 13.32 of the Louisville Municipal Code (the "Code"); and

WHEREAS, the U.S. Environmental Protection Agency, Region 8 (the "EPA"), is requiring the City to amend Chapter 13.32 of the Code to come into greater compliance with the USEPA Industrial Pretreatment Program regulations; and

WHEREAS, the City Council, by this Ordinance, desires to amend Chapter 13.32 of the Code as required by the EPA.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 13.32 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Chapter 13.32 SEWER USE REGULATIONS

Sec. 13.32.010.- General purpose and policy.

Sec. 13.32.020.- Abbreviations and definitions. ~~Definitions.~~

Sec. 13.32.030.- Sewer use.

Sec. 13.32.040.- General and specific discharge prohibitions.
Sec. 13.32.050.- Further standards and limitations.
Sec. 13.32.060.- Pretreatment of wastewater.
Sec. 13.32.070.- Individual and general wastewater discharge permits.
~~Wastewater discharge permit requirements.~~
Sec. 13.32.080.- Wastewater discharge reports.
Sec. 13.32.090.- Monitoring inspection.
Sec. 13.32.100.- Publication of users in significant noncompliance. ~~List of noncomplying users.~~
Sec. 13.32.105.- Confidential information.
Sec. 13.32.107.- Disconnection of discharge.
Sec. 13.32.110.- Fees and charges.
Sec. 13.32.120.- Reserved. ~~Specific pollutant limitations.~~
Sec. 13.32.125.- Commercial, institutional or industrial surcharge.
Sec. 13.32.130.- Enforcement.
Sec. 13.32.140.- Appeal.
Sec. 13.32.150.- Penalties and remedies.
Sec. 13.32.160.- Affirmative defenses to discharge violations. ~~Severance clause.~~
Sec. 13.32.170.- Severance Clause. ~~Industrial user categories.~~
~~Sec. 13.32.180.- Sampling schedule for permitted industries.~~

Sec. 13.32.010. General purpose and policy.

This chapter sets forth uniform requirements for direct and indirect contributors to the wastewater collection and treatment system of the city and enables the city to comply with all applicable state and federal laws, including the Clean Water Act of 1977 and the general pretreatment regulations (40 CFR 403).

The objectives of this chapter are to:

- A. Regulate the collection of wastewater and treatment thereof, so as to provide for maximum public benefit in regard to the health, safety and welfare to the employees and residents of the city;
- B. Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- C. Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- D. Improve the opportunity to recycle and reclaim wastewaters and sludges from the systems;
- E. Provide for equitable distribution of the cost of the municipal wastewater system.

This chapter shall apply within the city and to persons outside the city who are, by contract, agreement or authorized by the city to discharge into the city's

publicly owned treatment works. Except as otherwise provided herein, the city manager or his designated representative shall supervise and control in all matters and shall administer, implement, and enforce the provisions of this chapter.

Sec. 13.32.020. Abbreviations and definitions. ~~Definitions.~~

The following abbreviations shall have the following meanings:

BOD: Biochemical oxygen demand.

CFR: Code of Federal Regulations.

COD: Chemical oxygen demand.

CWA: Clean Water Act.

EPA: Environmental Protection Agency.

FOG: Fats, oils and grease.

mg/l: Milligrams per liter.

NPDES: National Pollutant Discharge Elimination System.

POTW: Publicly owned treatment works.

RCRA: Resource Conservation Recovery Act.

SIC: Standard Industrial Classification.

SWDA: Solid Waste Disposal Act, 42 USC 6901, et seq.

TSS: Total suspended solids.

USC: United States Code.

Unless a provision expressly states otherwise, the following terms and phrases, as used in this chapter, shall have the following meanings: ~~As used in this chapter:~~

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.

Approval authority means the Regional Administrator of EPA Region VIII or, if the State has an approved state pretreatment program, the Director of the Water Quality Control Division of the Colorado Department of Public Health and Environment (CDPHE). ~~the director in an NPDES state with an approved state pretreatment program and the appropriate regional administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.~~

Authorized or duly authorized representative of industrial user means:

A. If the user is a corporation:

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

2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is: authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations; authorized to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and has been assigned or delegated authority to sign documents in accordance with corporate procedures.

B. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

C. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

D. The individuals described in subsections A through C above may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a 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.

Best management practices (BMPs) ~~Best management practice (BMP)~~ means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 13.32.040 and 40 CFR 403.5(a)(1) and (b). BMP also includes treatment requirements, operating procedures and practices to control plan site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs can also include alternative means (management plans, etc.) for compliance with, or in place of, certain established effluent limits.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory ~~procedures~~ procedure five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g.mg/L). ~~expressed in terms of weight and concentration milligrams per liter (mg/l).~~

Biosolids has the same meaning as defined by ~~that has under~~ the Colorado Department of Health and Environment Water Quality Control Commission biosolids regulation, 64.9.L (5 CCR 1002-64), ~~4.9.0 (5 CCR 1002-19)~~, as that regulation may be amended or restated, from time to time.

Building sewer means a sewer conveying wastewater from the premises of a user to the city's sanitary sewer main.

Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

Categorical industrial user (CIU) ~~industry~~ means an industrial user subject to a national categorical pretreatment standard or categorical standard, one of the industries for which the EPA has established or is in the process of establishing categorical pretreatment standards.

Categorical pretreatment standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Chemical oxygen demand (COD) means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water, expressed as the amount of oxygen consumed in mg/L, the oxygen equivalent of that portion of organic matter in a wastewater sample that is susceptible to oxidation by a strong chemical oxidant, expressed in terms of weight and concentration (mg/l).

City means the City of Louisville, the City Council of Louisville, or a person designated by the city council to act on behalf of ~~for~~ the city.

CFR means Code of Federal Regulations, a codification of the general and permanent rules published in the Federal Register by the executive departments and agency of the federal government.

Compliance schedule means ~~any~~ a schedule of remedial measures included in a permit or an enforcement order, including a sequence of interim requirements (for example, actions, operations, or milestone events) that lead to compliance with the Act and regulations, for meeting a compliance deadline required by city, state or U.S.E.P.A.

Composite sample means a sample composed of two or more discrete samples to reflect the average water quality during the compositing or sampling period. ~~representative flow-proportioned or time-proportioned sample, collected within a 24-hour period composed of a minimum of four individual samples collected at equally spaced intervals and combined according to flow or time or as modified by the approving authority.~~

Conventional pollutant means pollutants typical of municipal sewage, and for which municipal secondary treatment plants are typically designed; defined by 40 CFR § 401.16 as BOD, TSS, fecal coliform bacteria, oil and grease and pH, biochemical oxygen demand, total suspended solid, pH, fecal coliform bacteria, oil and grease plus any additional identified in the POTW's NPDES permit, where the POTW is designed to treat such pollutants, and in fact does treat such pollutants to the degree required by the NPDES permit limitations.

Cooling water ~~means water discharged from any use such as air conditioning, cooling, refrigeration or any thermal heat exchange process to which the only pollutant added is heat.~~

Control authority ~~means the city's POTW. The term "control authority" shall refer to the director of public works of the city or his designated agent.~~

~~Critical industry means a user which is a significant user, a categorical industry or which is required to report the storage of hazardous materials pursuant to the requirements of this chapter. This includes both significant and potential contributors.~~

Daily maximum means the arithmetic average if all effluent samples for a pollutant collected during a calendar day.

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

~~Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.~~

Dental facility means any facility that practices dentistry, including but not limited to, dental clinics, dental labs, offices, hospitals, and schools.

~~Domestic, or sanitary wastes, or sewage~~ means liquid wastes:

1. ~~(a)~~ from the noncommercial preparation, cooking and handling of food,
or

2. ~~(b)~~ containing only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions or combination thereof.

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

~~Existing source user~~ means an industrial user which is in operation at the time of ~~proposal promulgation~~ of categorical pretreatment standards.

Fats, oil or grease (FOG) means any hydrocarbons, fatty acids, soaps, fats, waxes, oils and any other material that is extracted by hexane solvent, as specified in 40 CFR § 136.3.

Garbage means solid wastes from domestic and commercial preparation, cooking and dispensing of food and from handling, storage and sale of produce. "Properly ground garbage" shall mean the wastes from the preparation, cooking and dispensing of foods that have been ground to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch in any dimension.

Grab sample means a sample that which is taken without regard to the flow in the wastestream and over a period of time from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time. The time it takes to collect this sample shall not to exceed fifteen (15) minutes.

Harmful wastes means any solid, liquid, or gaseous substances which would violate the prohibitions contained in this chapter.

Hazardous waste means any waste containing substances or characteristics listed as such under 40 CFR § 261. Code of Federal Regulations, title 40, section 261.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

~~*Immediately* means within 24 hours.~~

Indirect discharge means the discharge or the introduction of pollutants from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act, into the POTW.

Industrial user ~~or user~~ means any non-domestic source discharging or with a potential to discharge pollutants regulated under Section 307(b), (c), or (d) of the Act into the POTW. a source of indirect discharge.

Industrial wastes means the water carried wastes from industrial manufacturing or industrial processes, as distinct from sanitary sewage. It includes, but is not limited to, the trade wastes produced by, but not limited to, food processing and bottling plants, food manufacturing plants, slaughtering plants, tallow works, plating works, disposal services, industrial cleaning plants, fertilizer plants, car and truck washing operations, laundries, cleaning establishments, cooling plants, chemical plants and chemical treatment installations.

Instantaneous maximum ~~allowable discharge~~ limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

2. Therefore is a cause of violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued there under (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of SWDA), the Clean Air Act, the Toxic Substance Control Act, the Marine Protection, Research and Sanctuaries Act.

Local limit means an effluent limitation developed for significant industrial users (SIUs) by the city to specifically protect the POTW from interference and

passthrough (as herein defined) based on site-specific design and disposal limits and conditions of the POTW. Local limits are developed to assure that industrial user discharges to the POTW do not cause the POTW to violate its permit limits, upset the POTW's biological, chemical or physical treatment processes, prevent the disposal of biosolids (sludge), impact worker health and safety or harm the collection system infrastructure. Local Limits shall be Pretreatment Standards pursuant to 40 CFR § 403.5(d).

Mass limit or mass loading means the total number of pounds of a pollutant allowed to be discharged during a specified ~~specific~~ time period.

Medical waste includes, but is not limited to, isolation wastes, infectious agents, human blood and blood products, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly average means the arithmetic mean of the concentration values of a pollutant in the effluent during a calendar month or as otherwise defined by the approval ~~approving~~ authority.

National pollutant discharge elimination system (NPDES) means the national program for issuing, ~~modifying, revoking and reissuing, terminating, monitoring and enforcing~~ conditioning and denying permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the Act. ~~for the discharge of pollutants from point sources into navigable waters of the contiguous zone and the oceans pursuant to Section 402 of the Clean Water Act (P.L. 95-217, 33 USC, Section 1342).~~

National pollution discharge elimination system permit or NPDES permit means a permit issued pursuant to Section 402 of the Act (P.L. 95-217, 33 U.S.C., Section 1342), including permits issued by the State of Colorado in compliance with the Act.

~~*National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.~~

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 Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility or installation is constructed at a site at which no wastewater 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 of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing wastewater source of 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 will 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, or installation meeting the criteria of paragraph A.2, or A.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;

b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which are 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.

Noncontact cooling water or cooling water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product or finished product. It may also mean water discharged from any use such as air conditioning, cooling, refrigeration or any thermal heat exchange process to which the only pollutant added is heat.

Pass through means a discharge which exits the POTW into waters of the United States 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 POTW's NPDES permit, including an increase in the magnitude or duration of a violation. ~~(including an increase in the magnitude or duration of a violation).~~

Person means any individual, partnership, copartnership, firm, company, corporation, limited liability company, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives,

agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units. ~~the logarithm (base 10) of the reciprocal of the concentrate of hydrogen ions expressed in grams per liter of solution.~~

Pollutant means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, explosives, chemical wastes, ~~corrosive substances,~~ biological materials, ~~or nutrients,~~ radioactive materials, heat, ~~malodorous substances,~~ wrecked or discharged equipment, rock, sand, ~~slurry,~~ cellar dirt, ~~untreatable waste or industrial,~~ municipal, agricultural and industrial wastes and certain characteristics of wastewater (e.g., PH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor. , or medical waste discharged into water or with water.

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

Potential contributor means industries which may be classified as categorical industries and the nature of their processes are such that priority pollutants are not discharged under normal operations. This includes anyone storing hazardous materials as defined in this chapter.

Pretreatment or treatment 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 discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or other means, except as prohibited by § 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with § 403.6(e).

Pretreatment Program or Program means the City's program, approved by the Approval Authority in accordance with §403.11 of the Federal Pretreatment Regulations, that implements the federal Pretreatment Standards and Requirements and all other Pretreatment Requirements and the City's associated legal authority included herein.

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

Pretreatment standards or ~~national pretreatment standard,~~ or standard means prohibited discharge standards, categorical Pretreatment Standards, and Local Limits. ~~any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307 (b) and (c) of the Act, which applies to industrial~~

~~users. This term includes prohibitive discharge limits established pursuant to § 403.5.~~

Priority pollutants means any of the various toxic compounds that can reasonably be expected in the discharges from industries as determined by the EPA, pursuant to section 307(a) of the Act (33 USC § 1317(a)).

Private sewage disposal system means any sewage disposal system other than public facilities, such as privies, privy vaults, septic tanks, soil absorption systems, cesspools, chemical toilets, package treatment plants or similar facilities which receive or are intended to receive wastewater and which are not connected to the POTW; but this term shall not include any treatment plant which has a valid NPDES permit.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Prohibited discharge standards or prohibited discharges means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 13.32.040 of this chapter

Publicly owned treatment works (POTW) means a treatment works as defined by Section 212 of the Act, (33 USC § 1292) which is owned ~~in this instance~~ by the city. The term also means the municipality, as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant. ~~sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyance not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.~~

~~*POTW treatment plant* means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.~~

~~*Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.*~~

Receiving waters means any lakes, rivers, streams, or other surface or subsurface water courses which receive treated or untreated wastewater.

Receiving water quality standards requirements means the requirements for the POTW's treatment plant effluent established by applicable state or federal statutes or regulations for protection of receiving water quality. Such requirements

shall include effluent limitations, and waste discharge standards, requirements, limitations, or prohibitions which may be established or adopted from time to time.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted; including the pipe or conduit system and appurtenances, for the collection, transportation, pumping, and treatment of sewage. This definition shall also include the terms "public sewer," "sewer system," "POTW sewer," and "sewer."

Septage means the solid and liquid wastes from septic tanks, vault toilets, portable toilets or similar facilities.

Service connection means a sewer line intended for discharging wastewater into the city's POTW and commencing at a structure or facility and terminating at a sewer main.

Sewer main means that portion of the city's POTW used for the collection and transportation of wastewater to treatment facilities and which has been installed for the express purpose of allowing service

Shall and will are mandatory.

Significant industrial user (SIU) means:

A. Any industrial user:

1. Subject to categorical Pretreatment Standards ~~pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N, or~~

2. That has a discharge flow of 25,000 gallons or more per average work day or more process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater), or

3. That has a flow greater than five percent of the average dry-weather hydraulic or organic capacity of the POTW treatment plant, or

4. That is designated as such by the control authority, ~~Colorado Department of Public Health and Environment (CDPHE), or the U.S. Environmental Protection Agency (EPA)~~ 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 (in accordance with 40 CFR § 403.8(f)(6)).

~~B. Upon a finding that an industrial user meeting the criteria in paragraph A.1, 2, 3 or 4 of this definition 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 or POTW, and in accordance with 40CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.~~

~~B. C.~~ The city may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more

than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

1. The industrial user, prior to city's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
2. The industrial user annually submits the certification statement required in 40CR 403.12(q), together with any additional information necessary to support the certification statement; and
3. The industrial user never discharges any untreated concentrated wastewater.

C. Upon a finding that an industrial user meeting the criteria in paragraph A.1, 2, 3 or 4 of this definition 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 or POTW, and in accordance with 40 CFR § 403.8(f)(6), determine that such industrial user is not a significant industrial user.

~~Small significant industrial user means a user which is classified as a "significant industrial user" and who has a process discharge flow of less than 17 gallons per minute per average work day.~~

~~Significant noncompliance. A means a violation of a significant industrial user (or any industrial user which violates paragraphs (C), (D), (E), (F), (G) or (H) of this section) is in "significant noncompliance" if its violation that meets one or more of the following criteria:~~

A. Chronic violations of wastewater discharge limits, defined in this section as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined in section 13.32.020;

B. Technical review criteria (TRC) violations defined in this section as those in which 33 percent or more of all of the measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined in section 13.32.020 multiplied by the applicable criteria TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a pretreatment standard or requirement as defined in section 13.32.020 (daily maximum, long term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

D. Any discharge of a pollutant that has caused imminent endangerment to the human health, welfare or to the environment, or has resulted

in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance;

H. Any other violation or group of violations, which may include a violation of Best Management Practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program;

I. Failure to report an accident, prohibited, or non-permitted discharge.

Slug, slug load, slug discharge means:

A. Any discharge at a flow rate and/or concentration, which will cause a violation of the prohibited discharge standards in section 13.32.040 of this chapter; or

B. Any non-routine, episodic nature discharge, including but not limited to accidental spill or non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, including all revisions to date.

~~*Standard methods* means any procedures described in the latest edition of "Standard Methods for the Examination of Water and Wastewater" as published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.~~

Storm sewer means a sewer that carries only stormwater, surface water and groundwater drainage.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting there from.

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 chapter. The term also means a duly authorized representative of the city.

Total suspended solids (TSS) means the total matter that floats on the surface of, or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering and referred to as suspended residue in 40 CFR 136.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental

Protection Agency under the provision of CWA 307(a) or other acts (33 U.S.C. § 1317(a)).

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee. 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.

User means any person who contributes, causes or permits the contribution of, wastewater into city's POTW.

Violation means any pollutant concentration or mass loading which exceeds effluent limitations defined by section ~~13.32.120~~ 13.32.040(D) or in the discharge permit issued under this chapter; any failure to provide adequate and timely reports required by a permit; any failure to abide by any management conditions required by a permit or this chapter; or any failure to abide by the terms, conditions and restrictions of this chapter, a permit issued hereunder or applicable federal or state regulations.

Wastewater means ~~or sewage mean~~ the combination of the liquid and water-carried industrial or domestic wastes from residences, commercial buildings, industrial facilities, and institutions including cooling water which is contributed into or permitted to enter the POTW.

Wastewater discharge permit means the permit provided for in this chapter.

Wastewater treatment plant or treatment plant means the portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

~~Abbreviations. The following abbreviations shall have the designated meanings:~~

- ~~A. BOD: Biochemical oxygen demand.~~
- ~~B. CFR: Code of Federal Regulations.~~
- ~~C. COD: Chemical oxygen demand.~~
- ~~D. CWA: Clean Water Act.~~
- ~~E. EPA: Environmental Protection Agency.~~
- ~~F. FOG: Fats, oils and grease.~~
- ~~G. mg/l: Milligrams per liter.~~
- ~~H. NPDES: National Pollutant Discharge Elimination System.~~
- ~~I. POTW: Publicly owned treatment works.~~
- ~~J. RCRA: Resource Conservation Recovery Act.~~
- ~~K. SIC: Standard Industrial Classification.~~

- ~~L. SWDA: Solid Waste Disposal Act, 42 USC 6901, et seq.~~
- ~~M. TSS: Total suspended solids.~~
- ~~N. USC: United States Code.~~

Sec. 13.32.030. Sewer use.

A. *Connection required.* The owner of every house, building or structure used for human occupancy, employment, or recreation, situated within the city is required, at his expense to install suitable sanitary facilities in accordance with the Uniform Plumbing Code and to connect such facilities with the POTW or a treatment plant with a valid NPDES permit in accordance with the notice to do so. Any septic tank, cesspool, privy, or similar private disposal facilities shall, upon such notice, be immediately emptied and removed from service as determined by the city. No person shall discharge, or allow to be discharged, any wastewater except as follows:

1. By a direct service connection to a city sewer main, if the connection has been authorized by the city;
2. By transporting in a safe and sanitary manner to a landfill or other disposal site approved by public health officials and capable of accepting the type of wastes involved;
3. By a service connection to a treatment plant with a valid NPDES permit where such connection is approved by the city manager or his designated agent.

B. *Service connection permit required.* No person other than city personnel or other persons authorized by the city shall undertake maintenance and repair work on, uncover, open into, make service connections with, use, alter or disturb any portion of the city's POTW or manhole covers without first obtaining a city service connection permit. All service connections shall be at the permittee's expense, shall comply with all applicable provisions of this chapter and all applicable city standards and specifications and provisions of the municipal Code as may be adopted from time to time, and shall be subject to all applicable fees and charges as may be established by the city.

C. *Outhouses prohibited.* No person shall erect or maintain any outhouse or privy within the city; except that chemical toilets shall be permitted at construction sites or as permitted by the Superintendent, ~~director of public works~~.

D. *Wastewater or septic tank haulers.* Commercial wastewater or septic tank haulers shall not discharge any holding tank waste ~~wastewater~~ into the POTW without prior approval of the Superintendent ~~director of public works~~; recreational vehicles with a holding tank capacity of less than 50 gallons may discharge holding tank waste into the POTW through designated discharge points.

E. *Discharge of sewage.* All sewage shall be discharged to sanitary sewers through authorized connections. No person shall discharge any sewage from any premises within the city into or upon any stream, water course, drainage

channel, ditch, pond, lake, lagoon or public property or into any drain, cesspool, or storm sewer.

F. *Stormwater.* No person shall make a connection which would allow any stormwater to discharge into any sanitary sewer.

G. *Hazardous waste.* Any industry which discharges into the POTW a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR § 261, shall comply with the requirements in 40 CFR § 403.12(p). ~~403.12(P).~~

Sec. 13.32.040. General and specific discharge prohibitions.

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

A. *General prohibitions.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which causes ~~will~~ pass through or interference. ~~interfere with the operation or performance of the POTW.~~ These general prohibitions apply to all such users of a POTW whether or not the user is subject to ~~national~~ categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

B. *Specific prohibitions.*

1. Any wastewater which creates a fire or explosion hazard in the ~~POTW, publicly owned treatment works (POTW),~~ including but not limited to, wastestreams with a closed cup flashpoint of less than 60 degrees Celsius (140 degrees Fahrenheit) using the test methods specified in 40 CFR § 261.21;

2. Any wastewater having a pH less than 6.0 or more than 12.0 or any other corrosive property capable of causing damage or hazard to structures or equipment of the POTW or to employees of the city;

3. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, paunch manure, bones, hair, hooves, hides or fleshing, whole blood, feathers, ashes, cinders, sand, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel, lubricating oil, or waste lubricating oil, mud, glass grinding or polishing wastes, cement concrete, plaster, gravel, hay, lime slurry or sludge, paint or chemical residues;

4. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW;

5. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant, resulting in interference, but in no

case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit);

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

7. Any wastewater which results 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, including but not limited to, commercial, industrial or domestic generated wastes, except in accordance with section 13.32.030(D) of this chapter. ~~at points designated by the POTW.~~

9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

10. Detergents, surface-acting agents, or other substances that might cause excessive foaming in the POTW;

11. Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;

12. ~~10.~~ Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;

13. ~~11.~~ Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by applicable state or federal regulations;

14. ~~12.~~ Any substance which will cause the POTW to violate its NPDES permit of the receiving water quality standards;

15. ~~13.~~ Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system, or at any point in the system, be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, fuel oil, mineral oil, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the city, the state or the EPA has determined is a fire hazard or a hazard to the POTW;

16. ~~14.~~ Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, to contaminate the sludge of the

POTW, or to exceed the limitation set forth in a categorical pretreatment standards. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act;

~~17.~~ ~~15.~~ Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, biosolids, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;

~~18.~~ ~~16.~~ Any slugload, which shall mean any pollutant, released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW.

C. General requirements regarding deleterious wastes. The following sewage, water, substances, materials and wastes are prohibited from being discharged to the POTW by any user unless authorized through prior written permission from the city. Written permission from the city may include, but not be limited to, the imposition of site-specific limitations, BMPs and/or requirements to obtain a wastewater discharge permit pursuant to section 13.32.070 of this chapter. These requirements and prohibitions may be imposed directly on process wastewaters prior to dilution by domestic or other wastewater discharged by users. Approval of such a discharge is solely at the discretion of the city and shall not constitute approval of any additional or similar discharges.

1. Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants;

2. Any wastes which are high in dissolved solids such as sodium chloride, calcium chloride, or sodium sulfate, contain substances conducive to creating tastes or odors in drinking water supplies or otherwise make such waters unpalatable even after conventional water purification treatment;

3. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of Wastewater (including, but not limited to, materials which have been removed by catch basins, grease traps, sand traps, or pretreatment systems/devices), or acquired from another person or location;

4. Any waste stream not included in 13.32.040(B) that is regulated under one or more National Emissions Standards for Hazardous Air Pollutants (NESHAP) listed in the 40 CFR §61 and §63;

5. Brine or other concentrated waste streams from reverse osmosis or other membrane filtration processes.

D. Specific pollutant limitations. The city is authorized to establish local limits pursuant to §403.5(c).

1. Concentration-based limitations. Every permitted significant industrial user of the POTW, except where mass limits have been established, shall not discharge any wastewater with a pollutant concentration exceeding the following standards:

<u>Pollutant/ Pollutant Property</u>	<u>Daily Maximum Concentration in mg/l</u>
<u>Arsenic (Total)</u>	<u>0.126</u>
<u>Cadmium (Total)</u>	<u>0.039</u>
<u>Chromium (VI) (Dissolved)</u>	<u>0.546</u>
<u>Chromium (III) (Dissolved)</u>	<u>1.330</u>
<u>Copper (Total)</u>	<u>0.845</u>
<u>Lead (Total)</u>	<u>0.027</u>
<u>Mercury (Total)</u>	<u>0.004</u>
<u>Molybdenum (Total)</u>	<u>0.521</u>
<u>Nickel (Total)</u>	<u>0.840</u>
<u>Selenium (Total)</u>	<u>0.189</u>
<u>Silver (Total)</u>	<u>0.102</u>
<u>Zinc (Total)</u>	1.800

2. Special conditions.

(a) Mass limitations for permitted users. The city may impose mass limitations on permitted users subject to a federal, state, or city standard. Such mass limitation may be imposed through such user's industrial wastewater discharge permits. The total mass of pollutants allocated to all permitted industrial users shall not exceed the level specified below. Changes in local limits due to increased or decreased loading in the service area, or due to other special conditions, including but not limited to water quality stream standards, NPDES discharge permit limits, or other conditions as determined by the city, may cause a change in these allocations. Industrial users shall monitor and report daily flows as required by the wastewater contribution permit. Allocations may be revoked by the city and shall not be considered property rights.

<u>Pollutant/Pollutant Property</u>	<u>Daily Maximum Allowable Industrial Load in Lbs/Day</u>
<u>Arsenic (Total)</u>	<u>0.0210</u>
<u>Cadmium (Total)</u>	<u>0.0064</u>
<u>Chromium (VI) (Dissolved)</u>	<u>0.0907</u>
<u>Chromium (III) (Dissolved)</u>	<u>0.2212</u>
<u>Copper (Total)</u>	<u>0.1405</u>
<u>Lead (Total)</u>	<u>0.0045</u>
<u>Manganese (Total)</u>	<u>0.5506</u>
<u>Mercury (Total)</u>	<u>0.0007</u>
<u>Molybdenum (Total)</u>	<u>0.0867</u>
<u>Nickel (Total)</u>	<u>0.1397</u>
<u>Selenium (Total)</u>	<u>0.0314</u>
<u>Silver (Total)</u>	<u>0.0170</u>
<u>Zinc (Total)</u>	0.2993

(b) Mass limitations for non-permitted users. The city may impose mass limitations on non-permitted users. The total mass of pollutants allocated to all non-permitted users shall not exceed the level specified below. Changes in local limits due to increased or decreased loading in the service area, or due to other special conditions, including but not limited to water quality stream standards, NPDES discharge permit limits, or other conditions as determined by the city, may cause a change in these allocations. Non-permitted users shall monitor and report daily flows as required by the city. Allocations may be revoked by the city and shall not be considered property rights.

<u>Pollutant/Pollutant Property</u>	<u>Daily Maximum Allowable Commercial Load in Lbs/Day</u>
<u>Arsenic (Total)</u>	<u>0.0021</u>
<u>Cadmium (Total)</u>	<u>0.0150</u>
<u>Chromium (VI) (Dissolved)</u>	<u>0.2117</u>
<u>Chromium (III) (Dissolved)</u>	<u>0.5160</u>
<u>Copper (Total)</u>	<u>0.3277</u>
<u>Lead (Total)</u>	<u>0.0104</u>
<u>Mercury (Total)</u>	<u>0.0017</u>
<u>Molybdenum (Total)</u>	<u>0.2024</u>
<u>Nickel (Total)</u>	<u>0.3260</u>
<u>Selenium (Total)</u>	<u>0.0732</u>
<u>Silver (Total)</u>	<u>0.0396</u>
<u>Zinc (Total)</u>	<u>0.6984</u>

pH limitation: pH shall remain above 6.0 for permitted and non-permitted users.

Sec. 13.32.050. Further standards and limitations.

A. *Best Management Practices (BMPs).* The Superintendent Pursuant to 40 CFR 403.5(c)(4), POTW's may develop Best Management Practices (BMPs) to implement the requirements of Section 13.32.040 of this chapter. prohibitions listed in paragraphs (c)(1) and (c)(2) of said sections of 40 CFR 403.5. Pursuant to 40 CFR § 403.5(c)(4), such ~~Such~~ BMPs shall be considered local limits and pretreatment standards for the purposes of this chapter and section 307(d) of the Act.

The city may establish sector control programs based on BMPs to control specific pollutants as necessary to meet the requirements of this chapter for users that engage in similar activities and discharge similar pollutants. The city may establish policies for sector control programs as necessary to supplement the requirements included in this chapter and users subject to these sector control programs must comply with these policies. Users subject to sector control programs may be required to install and operate wastewater treatment systems and/or implement BMPs and may be required to apply for a wastewater discharge permit in accordance with section 13.32.070(C)(4) of this chapter.

B. *Categorical pretreatment standards.* Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471. Upon the promulgation of the categorical pretreatment standard for a particular industrial subcategory, developed pursuant to federal statutes or

regulations, the categorical pretreatment standard if more stringent than limitations imposed in this chapter shall immediately supersede the limitations imposed in this chapter.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent ~~city~~ may impose equivalent concentration or mass limits in accordance with sections 13.32.050(B)(4) and 13.32.050(B)(5) of this chapter. 40 CFR § 403.6(c).

2. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Superintendent ~~city~~ may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users in accordance with 40 CFR 403.6(c) (2)).

3. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent ~~city~~ shall impose an alternate limit in accordance with 40 CFR 403.6(e).

4. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Superintendent. The city may establish equivalent mass limits only if the user meets all the conditions set forth in sections 13.32.050(B)(4)(a)(i) through 13.32.050(B)(4)(a)(v) below.

(a) To be eligible for equivalent mass limits, the user must:

(i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

(ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

(iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating condition;

(iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(v) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the user's request for equivalent mass limits.

(b) A user subject to equivalent mass limits must:

(i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(iii) Continue to record the facility's production rates and notify the Superintendent whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph B(4)(a)(iii) of this section. Upon notification of a revised production rate, the Superintendent will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph B(4)(a)(i) of this section so long as it discharges under an equivalent mass limit.

(c) When developing equivalent mass limits, the Superintendent:

(i) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

(ii) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(iii) May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to section 13.32.050(F). The user must also be in compliance with §403.17 regarding the prohibition of bypass.

5. The Superintendent may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Superintendent.

6. Once included in its permit, the user must comply with the equivalent limitations developed in this subsection (B) in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

7. Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

8. Any user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Superintendent within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

C. *Specific pollutant limitations.* No person shall discharge wastewater containing in excess of the limitations on discharges as set forth in this chapter.

D. *Other requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those contained in this chapter. The city's limitations or requirements on discharges shall apply in any case where they are more stringent than state or federal requirements or limitations.

E. *City right of revision.* The city reserves the right to establish more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented herein.

F. *Dilution.* No user shall ever increase the use of water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the categorical pretreatment standards, or in any other specific pollutant limitation developed by the city or state. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements.

G. Bypass. All users shall comply with the requirements concerning bypass as set forth in section 13.32.160(B) of this chapter.

~~G. *Accidental discharges.* Each industrial user shall provide protection from accidental discharge of materials or substances regulated herein. Facilities to prevent accidental discharge of such materials or substances shall be provided and maintained at the industrial user's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing industrial users shall complete facilities and procedures in accordance with such a plan by July 1, 1983. No industrial user who commences contribution to the POTW after the effective date hereof shall introduce wastewater~~

~~into the system until accidental discharge facilities and procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user of the responsibility to modify the facility as necessary to meet the requirements of this chapter.~~

~~1. In the case of an accidental discharge, it is the responsibility of the industrial user to immediately notify the city of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions taken.~~

~~2. Within five days following an accidental discharge, the industrial user shall submit to the city a detailed written report describing the cause 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 user of any expense, loss, damage, or liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property, nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.~~

~~3. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees to call in the event of an accidental discharge. Employers shall insure that all employees, who may cause such accidental discharge to occur, are advised of the emergency notification procedure.~~

~~4. Special user agreement. Nothing contained in this chapter shall be construed as prohibiting special written agreements between the city and any other person allowing industrial waste of unusual strength or character to be admitted to the POTW, provided such user compensates the city for any additional costs of treatment. No such agreement may permit any discharge prohibited in subsections A or B of this section.~~

~~5. Bypass. All industrial users shall comply with the requirements concerning bypass as set forth in 40 CFR 403.17.~~

Sec. 13.32.060. Pretreatment of wastewater.

A. *Pretreatment Facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set forth in section 13.32.040 of this chapter within the time limitations specified by EPA, the State or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

B. *Additional Pretreatment Measures.*

1. Grease interceptors shall be required for all food preparation establishments (including, but not limited to, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops), food processing establishments, food manufacturing establishments, animal slaughter houses, soap factories, tallow/fat rendering establishments, hide curing establishments, schools, nursing homes and other establishments when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil; except that such interceptors shall not be required for residential users.

(a) All grease interceptors shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection.

(b) Such interceptors shall be inspected, cleaned, and repaired by the user at the user's expense.

(c) Grease interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease interceptor; that the discharge is in compliance with local wastewater discharge limits; and, to ensure that no visible grease is observed in the discharge. Grease interceptors shall be completely evacuated at a minimum of every 90 days, or more frequently when:

(i) 25 percent or more of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases;

(ii) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the city; or

(iii) If there is a history of noncompliance.

(d) The Superintendent may require a business to maintain a specific grease interceptor pumping and cleaning interval based on observed problems or noncompliance related FOG production, accumulation and wastewater discharges.

(e) Maintenance and pumping records must be kept onsite for a minimum of three (3) years. The Superintendent reserves the right to require a business to routinely submit maintenance and pumping records.

(f) Partial cleaning of grease interceptors is not allowed.

(g) Biological, enzymatic, or chemical treatment of wastewater flows is not allowed.

2. In-line grease traps shall be allowed by the Superintendent only where it is determined by the Superintendent to be impractical to install a grease interceptor. Installation of in-line grease traps in lieu of grease interceptors required written approval by the Superintendent.

(a) All in-line grease traps shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection.

(b) Such in-line grease traps shall be inspected, cleaned, and repaired by the user at the user's expense.

(c) In-line grease traps shall be cleaned of their accumulated matter as often as necessary, but not less than once per month, to ensure maximum efficiency and to prevent noncompliance with applicable discharge limitations. An in-line grease trap shall require service when settled solids and FOG exceed 25% of the liquid capacity of the tank.

(d) The Superintendent may require a business to maintain a specific grease interceptor pumping and cleaning interval based on observed problems or noncompliance related FOG production, accumulation and wastewater discharges.

(e) Maintenance and pumping records must be kept onsite for a minimum of three (3) years. The Superintendent reserves the right to require a business to routinely submit maintenance records.

(f) Partial cleaning of in-line grease traps is not allowed.

(g) Biological, enzymatic, or chemical treatment of wastewater flows is not allowed.

3. Sand and oil interceptors shall be required for all automotive/recreational service stations, truck or car wash facilities, vehicle maintenance facilities, mechanical repair shops, garden nurseries, warehouses, parking garages, machine shops, and other facilities where sand, oil and/or hazardous wastes could enter the POTW.

(a) All sand and oil interceptors shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection.

(b) Such interceptors shall be inspected, cleaned and repaired by the user at the user's expense.

(c) Sand and oil interceptors shall be pumped and cleaned of their accumulated matter as often as necessary to ensure maximum efficiency and to prevent noncompliance with applicable discharge limits, but no less than once per year. Interceptors shall require service when settled solids and floating oil exceed 25% of the liquid capacity of either compartment of the tank.

(d) The Superintendent may require a business to maintain a specific sand and oil interceptor pumping and cleaning interval based on observed problems or noncompliance related to sand and oil production, accumulation and wastewater discharges.

(e) Maintenance and pumping records must be kept onsite for a minimum of three (3) years. The Superintendent reserves the right to require a business to routinely submit maintenance and pumping records.

(f) Partial cleaning of sand and oil interceptors is not allowed.

(g) Biological, enzymatic, or chemical treatment of wastewater flows is not allowed.

C. Accidental Discharge/Slug Discharge Control Plans. The Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Superintendent may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Superintendent may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, 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 Superintendent of any accidental or Slug Discharge, as required by section 13.32.080(F) of this chapter; 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 of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Sec. 13.32.070 13.32.060. Individual and general wastewater discharge permits. Wastewater discharge permit requirement.

A. *Legal authority.* POTW shall operate pursuant to legal authority enforceable in federal, state, or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c) and 402(b)(8) of the Act and any regulations implementing those sections. Such authority may be contained in statute, ordinance, or a series of contracts or joint power agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by state law. At a minimum, this legal authority shall enable the POTW to:

1. Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit;

2. Require compliance with applicable pretreatment standards and requirements by industrial users; and

3. Control through permit, order, or similar means, the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements. In the case of industrial users identified as significant under 40 CFR 403.3(v), this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such user except as follows.

B. When requested by the city, a user must complete and submit an industrial waste survey with information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city, except that a significant industrial user that has filed a timely application pursuant to provision B of this section may continue to discharge for the time period specified therein.

2. The Superintendent may require other industrial users to obtain discharge permits as necessary to carry out the provisions of this chapter.

3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the user to the sanctions set out in sections 13.32.130 through 13.32.150 of this chapter. Obtaining a wastewater discharge permit does not relieve a user of its obligation to comply with all federal and state pretreatment standards and requirements or with any other requirements of federal, state and local law.

~~B. At the discretion of the control authority, the control authority may use general control mechanisms to control discharges to the POTW if the following conditions are met. All of the facilities to be covered must:~~

- ~~1. Involve the same or substantially similar types of operations;~~
- ~~2. Discharge the same types of wastes;~~
- ~~3. Require the same effluent limitations;~~
- ~~4. Require the same or similar monitoring; and~~
- ~~5. In the opinion of the POTW, are more appropriately controlled under a general control mechanism than under individual control mechanisms.~~

~~6. To be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with 40 CFR 403.12(e)(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with 40 CFR 403.12(e)(2). The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in subsections (B)(1) through (5) of this section, and a copy of the user's written request for coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined wastestream formula or net/gross calculations (40 CFR 403.6(e) and 403.15).~~

~~C. Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:~~

- ~~1. Statement of duration;~~
- ~~2. Statement of nontransferability pursuant to subsection J of this section;~~

3. ~~Effluent limits, including BMPs, based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;~~

4. ~~Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with 40 CFR 403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;~~

5. ~~Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines; and~~

6. ~~Requirements to control slug discharges, if determined by the POTW to be necessary.~~

C. D. *Permit application required.*

1. *Existing industrial users holding permits.* All industrial users that have an existing permit issued by the city and who wish to continue such discharges in the future, shall, within 90 days prior to expiration of the permit, reapply to the city for a wastewater discharge permit in accordance with subsection C.4 subsections D.4 of this section.

2. *New industrial users.* All new significant industrial users and non-significant categorical industrial users ~~(as defined in section 13.32.020)~~ who proposes to begin or recommence discharging into the POTW shall, at least 90 days prior to the date upon which any discharge will begin or recommence, apply to the city for a wastewater discharge permit in accordance with subsection C.4 subsections D.4 of this section.

3. *Existing industrial users not holding permits.* Any existing significant industrial user or non-significant categorical industrial user ~~(as defined in section 13.32.020)~~ who is discharging wastewater to the city shall submit an application for discharge to the city. Failure to submit an application shall be a violation of this chapter and may result in enforcement and penalties by the city. The industrial user shall notify the Superintendent ~~city~~ immediately and obtain a permit application.

4. *Permit application.* Users required to obtain a wastewater discharge permit shall complete and file with the city an application in the form prescribed by the city. In support of the application, the user shall submit, in units and terms appropriate for evaluation, at a minimum the following information:

(a) *Identifying Information.*

(i) The name and address of the facility, including the name of the operator and owner, and location of discharge (if different from the address);

(ii) Contact information, description of activities, facilities and plan production processes on the premises.

(b) Environmental Permits. A Standard industrial classification (SIC) and a list of any environmental control permits held by or for the facility. ;

(c) Description of Operations. Wastewater quantity and quality. Quality characteristics include, but are not limited to, those mentioned in section 13.32.050 as determined by an acceptable analytical laboratory approved by the city;

(i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operations carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the processes.

(ii) Types of wastes generated, and 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.

(iii) Number and type of employees, operational shifts and proposed or actual hours of operation.

(iv) Type and amount of raw materials processed (average and maximum per day).

(v) 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.

(d) Time and duration of discharge. ;

(e) The location for monitoring all wastes covered by the permit. Average daily and maximum wastewater flow rates, including daily, monthly, and seasonal variations from regulated process streams and other streams to allow use of the combined wastestream formula set out in 40 CFR 403.6(e), if any;

(f) Flow measurement. Information showing estimated or measured average and maximum flow (in gallons per day) from process streams that generate wastewater. Site plans, floor plans, mechanical and plumbing plans and details to show all sewer piping, sewer connections, and appurtenances by size, location and elevation. If deemed necessary by the city such plans shall provide for separate systems for handling sanitary wastes and industrial wastes;

(g) Measurement of pollutants. ~~Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;~~

(i) The results of sampling and analysis identifying the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal standards or requirements.

(ii) The samples shall be representative of daily operations and shall be analyzed in accordance with the procedures set out in section 13.32.080(I) of this chapter.

(iii) Sampling must be performed in accordance with the procedures set out in section 13.32.080(J) of this chapter.

(h) Any requests for a monitoring waiver or a renewal of an approved for a pollutant neither present nor expected to be present in the discharge based on section 13.32.080(D)(3) of this chapter [§403.12(e)(2)]. ~~Where known, the quantity and specific nature of any pollutants in the discharge which are limited by any city, state or federal standards or requirements; any requests for a monitoring waiver or a renewal of an approved for a pollutant neither present nor expected to be present in the discharge based on section 13.32.070.B.3;~~

(i) Any request to be covered by a general permit based on section 13.32.070(E). ~~Compliance schedule progress reports. If additional pretreatment or operation and maintenance will be required to meet the city, state or federal standards and requirements, the schedule by which the user will provide such additional pretreatment shall be submitted for review and approval. The type of pretreatment or operation and maintenance shall be reviewed by the city. The compliance date in this schedule shall not be later than the compliance date established for the applicable standards and requirements. The following conditions shall apply to this schedule:~~

i. ~~The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable standards and requirements.~~

ii. ~~No increment referred to in subsection D.4.(i)j. of this section shall exceed six months.~~

iii. ~~Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city including, as a minimum, whether or not user complied with the increment of progress to be met on such date and, if not, the date of which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the user to return the construction to the schedule established;~~

(j) Compliance Certification. A statement, certified by the user's authorized representative, as defined by section 13.32.020, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional

pretreatment is required to meet the pretreatment standards and requirements. A statement of certification as set forth in 40 CFR 403.6(a)(2)(ii) and signed by the authorized representative of the industrial user.

(k) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 13.32.080(B) of this chapter.

(l) Any other information as required by the city to evaluate the permit application. After evaluation and acceptance of the data furnished, the city may issue or deny a wastewater discharge permit;

(l) The applicant shall have 14 days from the date of notification to file written objections with the control authority to any permit conditions. The control authority may, but shall not be required to, schedule a meeting with the applicant's authorized representative within 15 days following receipt of the applicant's objections and attempt to resolve disputed issues concerning permit conditions. If the applicant files no objections to permit conditions proposed or if subsequent agreement is reached concerning such conditions, the control authority shall issue a wastewater discharge permit to the applicant with such conditions incorporated.

D. Application signatories and certifications.

1. All wastewater discharge permit applications must be signed and certified in accordance with section 13.32.080(M)(1) of this chapter.

2. A facility determined to be a non-significant categorical industrial user by the Superintendent as defined in section 13.32.020 must annually submit the signed certification statement in section 13.32.080(M)(2) of this chapter.

3. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the Superintendent prior to or together with any reports to be signed by an authorized representative.

E. Right of denial of application. After application for a new or existing discharge permit(s), the Superintendent ~~city~~ will evaluate the data furnished by the user and may require additional information before approval of such new or existing discharge permit(s). Within 60 days of receipt of a complete permit application, the Superintendent ~~city~~ will determine whether to issue an individual, or if applicable, a general, wastewater discharge permit. The Superintendent ~~city~~ may deny any application for an individual or general wastewater discharge permit.

F. Wastewater Discharge Permitting: General Permits.

1. At the discretion of the Superintendent, the Superintendent may use general control mechanisms to control discharges to the POTW if the following conditions are met. All of the facilities to be covered must:

- (a) Involve the same or substantially similar types of operations;
- (b) Discharge the same types of wastes;
- (c) Require the same effluent limitations;
- (d) Require the same or similar monitoring; and
- (e) In the opinion of the Superintendent, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

2. To be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with section 13.32.080(D)(3) of this chapter for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the Superintendent deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the Superintendent has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with section 13.32.080(D)(3) of this chapter [403.12(e)(2)].

3. The Superintendent will retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in subsections (1)(a) through (e) of this section, and a copy of the user's written request for coverage for three (3) years after the expiration of the general control mechanism.

4. The Superintendent may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined wastestream formula or net/gross calculations [§403.6(e) and §403.15].

G. Individual and General Wastewater Discharge Permit Contents.

1. Individual and general wastewater discharge permits must contain:

- (a) Statement of duration;
- (b) Statement of nontransferability pursuant to subsection J of this section;

(c) Effluent limits, including BMPs, based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;

(d) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with section 13.32.080(D)(3) of this chapter or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;

(e) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines; and

(f) Requirements to control slug discharges, if determined by the Superintendent to be necessary.

2. Individual and general wastewater discharge permits may contain, but need not be limited to, the following conditions:

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

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

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

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

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

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(g) A statement that compliance with the individual or general 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

(h) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter, and State and Federal laws, rules, and regulations.

~~F. *Permit required.*~~

~~1. No significant industrial user or non-significant categorical industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in sections 13.32.130 through 13.32.150 of this chapter. 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.~~

~~2. The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.~~

~~G. *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by the city. An individual or general wastewater discharge permit as well as BMPs shall include such conditions as are deemed reasonably necessary by the superintendent to prevent pass through or interference, protect the quality of the body of water receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Permits may be conditioned upon the following:~~

~~1. Limits on the average and maximum wastewater constituents and characteristics;~~

~~2. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;~~

~~3. Requirements for installation and maintenance of inspection and sampling facilities;~~

~~4. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules;~~

~~5. Compliance schedules;~~

~~6. Requirements for submission of technical reports or discharge reports;~~

~~7. Requirements for maintaining and retraining records relating to wastewater discharge as specified by the city and affording city access thereto;~~

~~8. Requirements for notification of the city of any new introduction of wastewater constituents or average volume being introduced into the POTW;~~

~~9. Requirements for notification and control of nonroutine, episodic discharges, including but not limited to, accidental spills or noncustomary batch discharges, if determined by the city to be necessary;~~

~~10. Requirements for separate systems to handle sanitary and industrial wastewater, such that in the event that the user's industrial wastewater is or could cause an interference or a potential interference with the POTW, that the industrial wastewater could be served, preventing discharge into the POTW but still allowing the user's sanitary wastewater to discharge into the POTW;~~

~~11. Any other conditions as deemed necessary by the city in order to enforce the provisions of this chapter;~~

~~12. Effluent limits based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law;~~

~~13. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on the applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;~~

~~14. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; such schedules may not extend the compliance date beyond federal guidelines.~~

H. *Permit duration; suspension or revocation.* A wastewater discharge permit or BMP shall be issued for a period of no more than five (5) three years from the date of issue. The user shall apply for a new permit with completed wastewater discharge permit application within a minimum of 90 days prior to the expiration of the user's existing permit. Any permit may be suspended or revoked for failure to comply with any of the requirements of this chapter, for any failure to accurately report the wastewater constituents and characteristics of its discharge; or any refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

I. *Permit modification.* The Superintendent may modify a wastewater permit for good cause, including but not limited to, the following reasons: Upon promulgation of additional categorical pretreatment standards and within the time prescribed thereby, the wastewater discharge permit of users subject to such standards shall be revised as required to comply with any part thereof which is stricter than existing standards or conditions of the permit. Where a user, subject to categorical pretreatment standards, has not previously submitted an application for a wastewater discharge permit, the user shall apply for a wastewater discharge permit within 30 days after promulgation of the applicable categorical pretreatment standard. Any user with an existing wastewater discharge permit shall submit to the city, within 30 days after such promulgation, the information required by subsections D.4(h) and D.4(i) of this section. In addition to the foregoing, the terms and conditions of the permit shall be subject to modification by the city during the

~~term of the permit as limitations or requirements are modified or other just cause exists. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance as determined by the city. The city reserves the right to require any industrial user to install and maintain a pretreatment system and require it to be operated by a state certified industrial wastewater plant operator if the system is of complicated design as determined by the city or shows a degree of noncompliance in meeting discharge limits.~~

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

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

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

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

5. Violation of any terms or conditions of the 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 the categorical pretreatment standards pursuant to §403.13; or

8. To correct typographical or other errors in the wastewater discharge permit.

J. *Permit transfer prohibited.* A wastewater discharge permit or BMP shall not be sold, traded, assigned, transferred, or sublet. Any new industrial user must obtain a wastewater discharge permit or BMP regardless of whether a permit or BMP previously existed for the same premises.

Sec. 13.32.080. ~~13.32.070.~~ Wastewater discharge reports.

~~A. Compliance date report.~~

~~A. 4. Baseline monitoring reports.~~ Within either one hundred and eighty (180) ~~180~~ days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent ~~city~~ a report which contains the information listed in subsection (1), below. ~~section 13.32.060.A.4.~~ At least ninety (90) ~~90~~ days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent ~~city~~ a report which contains the information listed in subsection (1),

~~below. section 13.32.060.A.4.~~ A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

1. Users described above shall submit the information set forth below.

(a) Identifying Information. The name and address of the facility, including the name of the operator and owner;

(b) Permits. A list of any environmental control permits held by the facility;

(c) Description of operations. A brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) 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.

(d) Estimated or measured average and maximum daily flow (in gallons per day) for regulated process streams and non-regulated process streams.

(e) Measurement of pollutants.

(i) The user shall identify the pretreatment standards applicable to each regulated process;

(ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or the city) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard;

(iii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

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

(v) Sampling and analysis shall be performed in accordance with sections 13.32.080(J) and 13.32.080(I) of this chapter;

(vi) The Superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(vii) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW;

(f) Compliance Certification. A statement, certified by the user's authorized representative, as defined by section 13.32.020, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(g) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 13.32.080(B) of this chapter.

(h) Signature and Report Certification. All baseline monitoring reports must be signed and certified in accordance with section 13.32.080(M)(1) of this chapter.

B. Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by sections 13.32.070(C)(4)(k) and 13.32.080(A)(1)(g) of this chapter:

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

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

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

4. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent; and

5. All compliance schedule progress reports must be signed and certified in accordance with section 13.32.080(M)(1) of this chapter.

C. 2. *Compliance with categorical pretreatment standard deadline report.* Within 90 days following the date for final compliance with applicable standards or requirements, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to federal, state or city standards and requirements shall submit to the ~~Superintendent city~~ a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such federal, state or city standards and requirements and the average, minimum and maximum daily flow and times for wastewater limited by such standards and requirements. For users subject to equivalent mass or concentration limits established in accordance with the procedures in section 13.32.050, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. The report shall state whether applicable standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance or pretreatment is necessary to bring a user into compliance with the applicable standards or requirements. All compliance reports must be signed and certified in accordance with section 13.32.080(M)(1) of this chapter. All sampling and analysis will be done in conformance with sections 13.32.080(J) and 13.32.080(I), respectively, of this chapter. This statement shall be signed by an authorized representative of the industrial user and certified by a professional engineer registered in the state.

D. Periodic compliance reports.

1. SIUs not subject to categorical pretreatment standards and any industrial user subject to a federal, state or city standard or requirement shall submit to the Superintendent, at a frequency determined in the permit, but no less than twice per year, a report indicating the nature and concentration and flow of pollutants in the wastewater which are limited by such standards or requirements. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period.

2. The city may impose mass limitations on industrial users which are using flow equalization to meet applicable federal, state or city standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection A of this section shall also indicate the mass of limited pollutants in the wastewater of the user. These reports shall also contain the result of sampling and analysis of the discharge, including production and mass of pollutants contained therein which are limited by the applicable standards and requirements.

3. The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

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

(b) The monitoring waiver is valid only for the duration of the effective period of the permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

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

(d) The request for a monitoring waiver must be signed and certified in accordance with section 13.32.080(M)(1) of this chapter.

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

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

(g) Upon approval of the monitoring waiver and revision of the user's permit by the Superintendent, the industrial user must certify on each report with the statement in section 13.32.080(M)(3) of this chapter that there has been no increase in the pollutant in its waste stream due to activities of the industrial user [§403.12 (e)(2)(v)].

(h) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of section 13.32.080(D)(1) of this chapter, or such other, more frequent monitoring requirements as may be imposed by the Superintendent, and notify the Superintendent.

(i) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

4. The city may reduce the requirement for periodic compliance reports [see section 13.32.080(D)(1) and §403.12(e)(1)] to a requirement to report no less frequently than once a year, unless required more frequently in the pretreatment standard or by the approval authority, where the industrial user's total categorical wastewater flow does not exceed any of the following:

(a) 0.01 percent of the POTW's design dry-weather hydraulic capacity, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;

(b) 0.01 percent of the POTW's design dry-weather organic treatment capacity; and

(c) 0.01 percent of the POTW's maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved Local Limits were developed in accordance with this chapter.

Reduced reporting is not available to industrial users that have in the last two (2) years been in Significant Noncompliance, as defined in section 13.32.020 of this chapter. In addition, reduced reporting is not available to an industrial user with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Superintendent, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

5. All periodic compliance reports must be signed and certified in accordance with section 13.32.080(M)(1) of this chapter.

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

7. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the wastewater discharge permit, using the procedures prescribed in sections 13.32.080(I) and 13.32.080 (J) of this chapter, the results of such monitoring shall be included in the report [§403.12(g)(6)].

E. 3. Reports of changed conditions. Users shall promptly notify the Superintendent in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the user has submitted initial notification under §403.12(p). Each

~~user must notify the city of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.~~

~~(a) The city may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 13.32.060.A.4. of this chapter.~~

~~(b) The city may issue a wastewater discharge permit under section 13.32.060 of this chapter or modify an existing wastewater discharge permit under section 13.32.060.E. of this chapter in response to changed conditions or anticipated changed conditions.~~

F. 4. Reports of potential problems. All categorical and non-categorical industrial users shall notify the Superintendent immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by §403.5(b), by the Industrial User. Significant industrial users are required to notify the city immediately of any changes at its facility affecting potential for a slug discharge.

1. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

2. Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

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

4. Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

G. 5. Notice of Violation/and 30 day re-sampling. If sampling performed by a user indicates a violation, the user must notify the Superintendent ~~city~~ within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent ~~city~~ within 30 days after becoming aware of the violation. Where the city has performed the sampling and analysis for the industrial user, the industrial user must perform the repeat sampling and analysis when notified of the violation by the city and required by the city to perform the repeat analysis.

H. 6. Notification of the discharge of hazardous waste. Users shall notify the city, 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 §261. Such notification must include the name of the hazardous waste as set forth in 40 CFR §261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 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 months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under §403.12 (j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of §403.12 (b), (d), and (e). The industrial user 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.

1. Dischargers are exempt from the requirements of section 13.32.080(H) of this chapter 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 §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 §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.

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

3. In the case of any notification made under section 13.32.080(H) of this chapter, the user shall certify it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

~~(a) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.~~

~~(b) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued there under, or any applicable federal or state law.~~

I. ~~7.~~ *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent ~~city~~ or other parties approved by EPA.

J. ~~8.~~ *Sample collection.* Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. The city shall require that frequency of monitoring necessary to assess and assure compliance by the user with applicable pretreatment standards and requirements.

1. ~~(a)~~ Except as indicated in subsections (1) and (2) ~~section (b) and (c)~~ below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Superintendent ~~city~~. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

2. ~~(b)~~ Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab sample collection techniques.

3. ~~(c)~~ For sampling required in support of baseline monitoring and 90-day compliance reports required in sections 13.32.080(A) and

13.32.080(C), ~~section 13.32.070.A.1 and 2~~, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent ~~city~~ may authorize a lower minimum. For the periodic compliance reports required by section 13.32.080(D) ~~13.32.070.B~~ the city shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

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

L. 9. *Record keeping.* Permitted and BMP users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses, as well as other records required including hauled waste manifests, zero discharge certifications (if applicable) or discharge flows, and BMP certifications. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the Superintendent ~~city~~.

M. *Certification Statements.*

1. *Application, Reporting and Waiver Certification.* The following certification statement is required to be signed and submitted by users submitting:

(a) permit applications in accordance with section 13.32.070(C)(4);

(b) baseline monitoring reports in accordance with section 13.32.080(A);

(c) compliance schedule progress reports in accordance with section 13.32.080(B);

(d) reports on compliance with the categorical pretreatment standard deadlines in accordance with section 13.32.080(C);

(e) periodic compliance reports in accordance with section 13.32.080(D); or

(f) an initial request to forego sampling of a pollutant on the basis of section 13.32.080(D)(3).

The following certification statement must be signed by an authorized representative, as defined in section 13.32.020 of this chapter:

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

2. *Annual Certification for Non-Significant Categorical Industrial Users.* A facility determined to be a non-significant categorical industrial user by the Superintendent pursuant to section 13.32.020 and section 13.32.070(C)(2) of this chapter must annually submit the following certification statement signed in accordance with the signatory requirements in section 13.32.020 of this chapter. This certification must accompany any alternative report required by the Superintendent:

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

(a) The facility described as _____ [facility name] met the definition of a non-significant categorical Industrial User as described in §403.3(v)(2);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information: _____.

3. *Certification of Pollutants not Present.*

Users that have an approved monitoring waiver pursuant to section 13.32.080(D)(3) must certify on each report with the following statement that there has been no increase in the pollutants in its wastestream due to the user's activities.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under section 13.32.080(D) [§403.12(e)(1)].

~~B. Periodic compliance reports.~~

~~1. Significant industrial users not subject to categorical pretreatment standards and any industrial user subject to a federal, state or city standard or requirement shall submit to the city during the months of June and December, unless required more frequently in the permit or by the city, a report indicating the nature and concentration and flow of pollutants in the wastewater which are limited by such standards or requirements. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period.~~

~~2. The city may impose mass limitations on industrial users which are using flow equalization to meet applicable federal, state or city standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection A of this section shall also indicate the mass of limited pollutants in the wastewater of the user. These reports shall also contain the result of sampling and analysis of the discharge, including production and mass of pollutants contained therein which are limited by the applicable standards and requirements.~~

~~3. The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:~~

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

~~(b) The monitoring waiver is valid only for the duration of the effective period of the permit, but in no case longer than three years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.~~

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

~~(d) The request for a monitoring waiver must be signed in accordance with section 13.32.020, and include the certification statement in 40 CFR 403.6(a)(2)(ii).~~

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

(f) ~~Any grant of the monitoring waiver by the city must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the city for three years after expiration of the waiver.~~

(g) ~~Upon approval of the monitoring waiver and revision of the user's permit by the city, the industrial user must certify on each report with the statement in 40 CFR 403.12 (e)(2)(v), that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.~~

(h) ~~In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of section 13.32.070.B.1, or such other, more frequent monitoring requirements as may be imposed by the city, and notify the city.~~

(i) ~~This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.~~

~~C. *Spill management plan.* The city will evaluate, at least once every two years, whether each significant industrial user needs a plan to control slug discharges. For purposes of this subsection, a "slug discharge" is any nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge. The results of such activities shall be available to the approval authority upon request. If the city decides that a spill management plan is needed, the plan shall contain, at a minimum, the following elements:~~

- ~~1. An ongoing inventory of the types and quantities of pollutants used or stored by the industrial user;~~
- ~~2. A diagram of the process and storage location at the facility;~~
- ~~3. A diagram of the location of the floor drains to sanitary or storm sewers;~~
- ~~4. A description of the measures used to prevent discharge to sanitary or storm sewers;~~
- ~~5. An outline of the spill prevention procedures followed by an industrial user;~~

~~6. If the city deems it to be necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), treatment and disposal methods, and/or measures and equipment for emergency responses. The existence of a management plan does not relieve the discharger from fines, civil penalties, or other liabilities which may be imposed in the event of violations of this Code or other applicable laws or ordinances.~~

~~D. *Signatory requirements.*~~

~~1. The reports required by users submitting permit applications; users submitting baseline monitoring reports; users submitting reports on compliance with the categorical pretreatment standard deadlines; users submitting periodic compliance reports, and users submitting an initial request to forego sampling of a pollutant based on section 13.32.070.B.3(d) of this section shall include a statement of certification as set forth in 40 CFR 403.6 (a) (2) (ii) and signed by the authorized representative of the industrial user.~~

~~2. A facility determined to be a non-significant categorical industrial user by the city pursuant to section 13.32.020 must annually submit the signed certification statement in 40CFR 403.12(q).~~

~~3. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the city prior to or together with any reports to be signed by an authorized representative.~~

~~E. *Supplemental monitoring.* If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the city, the results of this monitoring shall be included in the report.~~

Sec. 13.32.090. ~~13.32.080~~. Monitoring inspection.

A. *Right of entry; monitoring requirement.*

1. The city shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, taking digital photographs, and the performance of any additional duties.

2. Where required pursuant to this chapter or pursuant to terms and conditions of the wastewater discharge permit, the user shall provide and operate, at his expense, monitoring equipment and facilities sufficient to allow inspection, sampling, and flow measurement of the user's sewer systems. The monitoring equipment and facilities shall be situated on the user's premises or such other location as approved by the city.

3. There shall be ample room in or near such monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

4. The city may randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by the industrial users, occasional and continuing noncompliance with pretreatment standards, and inspect and sample the effluent from each significant industrial user at least once a year pursuant to 40 CFR 403.8(f)(2)(v).

5. Whether constructed on public or private property, the sampling and monitoring equipment and facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city unless another date is specified in the wastewater discharge permit.

6. The city may inspect the equipment and facilities of any user at any time during normal business hours to ascertain whether they are in compliance with applicable ordinances, rules and regulations. In the case of emergency the city may cause such inspection to occur at any time. Occupants of premises where wastewater is created or discharged shall allow the city or its representative entry for purpose of inspection, sampling, records examination, records copying or the performance of any other rights or responsibilities under this chapter. The city, state and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring, or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with its security force/system 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 specified responsibilities. Unreasonable delays in allowing the city, state and EPA access to the user's premises shall be a violation of this chapter. The city may sample and inspect without notice and at monitoring locations other than that specified in the permit to determine compliance independent of information supplied by the user. This sampling may be performed at monitoring locations on the user's property and without notification to the user.

7. In the event a duly authorized officer or agent of the city is refused admission for any purpose, the city may cause water and/or sewer service to the premises in question to be discontinued until the city's officer or agent has been afforded reasonable access to the premises and sewer system to accomplish the inspection or sampling.

8. All measurements, tests and analysis of the characteristics of wastewater to which reference is made in this section shall be determined in accordance with 40 CFR 136 or, where not addressed in accordance with procedures established by the EPA pursuant to Section 304(h) of the Act (33 USC 1314(h)), or with any other test procedures approved by the EPA administrator. In the event that no special facility has been required, the point of inspection shall be the downstream manhole in the POTW sewer nearest to the point at which the

building sewer is connected to the public sewer. All measurements, tests, and analysis, and all sampling shall be at the expense of the user.

B. *Search warrants.* If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may seek issuance of a search warrant from the municipal court of the city, and said municipal court is authorized to issue such warrant for one or more such purposes.

Sec. 13.32.090. Pretreatment.

~~Users shall provide necessary wastewater treatment as required to comply herewith. Any equipment and facilities required to pretreat wastewater to a level in compliance with this chapter shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved in writing by the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce wastewater in compliance with the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the city and approved prior to the user's initiation of the changes. Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, 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 city and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at the user's expense. Grease interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease interceptor; that the discharge is in compliance with local wastewater discharge limits; and, to ensure that no visible grease is observed in the discharge. Grease interceptors shall be completely evacuated at a minimum of every 90 days, or more frequently when: i) 25 percent or more of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases; ii) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the director of public works; or, iii) If there is a history of noncompliance.~~

Sec. 13.32.100. Publication of users in significant noncompliance. List of noncomplying users.

The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a

list of users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements, as defined by the criteria in section 13.32.020 of this chapter. The city will annually publish in one or more newspapers a list of users in significant noncompliance with applicable pretreatment requirements in accordance with definitions and regulations as set forth in 40 CFR 403.8. All records relating to compliance with applicable standards or requirements shall be made available to officials of the EPA or approval authority upon request, subject to any limitations contained in state statutes.

Sec. 13.32.105. Confidential information.

A. The industrial user must assert any claim of confidential information at the time of submission by stating the words "Confidential Business Information" on each page containing such information. If no such claim is made at the time of submission, the city may make the information available to the public without further notice. 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. If the industrial user feels that the approval authority's findings regarding the classification of information claimed to be confidential are in error, the user may elect to appeal such findings in accordance with Rule 106.A.2 of the state rules of civil procedure.

B. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate at the time of submission thereof to the satisfaction of the city or the director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

C. When requested by the user furnishing a report and such request is approved by the city, the portion 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 upon written request to governmental agencies for uses related to enforcing this article, the National pollutant discharge elimination system (NPDES) permit, or applicable standards or requirements. Moreover, such portions of the report shall be available for use by city, state, or any state agency in judicial review or enforcement proceedings involving the user furnishing the report.

Sec. 13.32.107. Disconnection of discharge.

In the event an industrial user intends to cease to discharge from a regulated process or plans to disconnect from the wastewater system the city must be notified no later than 30 days prior to any action by the industrial user. The notification shall provide a closure management plan that includes the following information, as a minimum:

1. Date of planned disconnect;

2. Methods of disposal of regulated process tanks, chemicals, sludges, plating wastes, cleaning solutions and other pollutants;
3. Methods of cleaning tanks, barrels, or other vessels containing regulated pollutants;
4. Names of carriers, copies of manifests and the ultimate disposal site of the regulated pollutants and the EPA permit numbers for the transportation of the wastes, if a permit is required;
5. Name of contact person to be contacted during closure and upon completion.

The industrial user shall be responsible for all discharges to the wastewater system and shall not be disconnected until the city has determined that the industrial user has disposed of the regulated wastes in a proper and safe manner and has requested termination of the discharge permit in writing.

Sec. 13.32.110. Fees and charges.

It is the purpose of this ~~section~~ chapter to provide for the recovery of costs from users of the ~~POTW city's wastewater disposal system~~ for the implementation of the program established in this chapter. The applicable charges or fees shall be set by resolution of the city council and such fees are in addition to sewer use fees and charges and sewer tap fees as set forth in this Code.

~~A. *Damage to facilities.* When a user's wastewater causes obstruction or damage, or because of the nature of the wastewater, increases the costs for managing the effluent or the sludge of the POTW, the user shall pay for such increased costs.~~

~~B. *Wastewater discharge permit fees.* Critical industries shall be subject to wastewater discharge permit fees as set forth below:~~

~~Class I~~

~~Significant contributor: a user which is a "critical industry".~~

~~Small significant contributor: a user which is a "critical industry" and has a discharge flow of less than 17 gallons per minute per average work day.~~

~~Potential contributor: industries which may be classified as categorical industries and the nature of their processes are such that priority pollutants are not discharged under normal operations.~~

~~Class A—Metal finishing processes which include but are not limited to: anodizing, coating, chemical etching and milling;~~

~~Class B—Chemical cleaning processes which include but are not limited to: vapor degreasers and petroleum products degreasers;~~

~~Class C—Nonchemical, detergent cleaning processes which are discharged directly into the sewer system. This includes but is not limited to: metal deburring, vat cleaning, and commercial can washer;~~

~~Class D—Storage of oil, gasoline or any chemical or substance in amounts over 100 gallons which could violate any of the provisions of subsection 13.32.040.B.13. This includes but is not limited to warehouses and gasoline stations.~~

~~*Permit Fees.* Permit fees for a significant contributor, a small significant contributor, and a potential contributor shall be as established by resolution of the city council.~~

~~Sampling Fees.~~

~~Sampling fees shall be set by the industrial pretreatment coordinator as required.~~

~~C. *Review of each user's wastewater permit charge.* The city may periodically review the total cost of operation and maintenance of the POTW as well as each user's discharge and will revise fees as necessary to assure equity and sufficient funds to adequately operate and maintain the POTW. If an industrial user has completed in-plant modifications which would change that user's discharge, the user can present to the city such factual information, and the city shall determine if the user's fees are to be changed.~~

~~D. *Classification of critical industries.* Critical industries may be divided into various classifications, including but not limited to significant contributors and potential contributors, and the fees within such classifications may reflect the differing costs to the city. A sampling schedule for critical industries shall be adopted by the city and distributed with the permit.~~

~~E. *Additional fees and charges which the city may levy.* Additional fees may be set by the industrial pretreatment coordinator as follows:~~

Such charges and fees may include:

1. Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
2. Fees for monitoring, inspections and surveillance procedures;
3. Fees for reviewing accident discharge procedures and construction;
4. Fees for permit applications;
5. Fees for filing appeals;
6. Fees for consistent removal by the city, of pollutants otherwise subject to federal pretreatment standards;
7. Other fees as the city may deem necessary to carry out requirements contained in this chapter;
8. Fees for reimbursement of costs for enforcement.

~~Sec. 13.32.120 Specific pollutant limitations.~~

~~A. Concentration-based limitations. Every permitted significant industrial user of the POTW, except where mass limits have been established, shall not discharge any wastewater with a pollutant concentration exceeding the following standards:~~

Pollutant/ Pollutant Property	Daily Maximum Concentration in mg/l
Arsenic (Total)	0.126
Cadmium (Total)	0.039
Chromium (VI) (Dissolved)	0.546
Chromium (III) (Dissolved)	1.330
Copper (Total)	0.845
Lead (Total)	0.027
Mercury (Total)	0.004
Molybdenum (Total)	0.521
Nickel (Total)	0.840
Selenium (Total)	0.189
Silver (Total)	0.102
Zinc (Total)	1.800

B. *Special conditions.*

1. *Mass limitations for permitted users.* The director of public works or his designated agent may impose mass limitations on permitted users subject to a federal, state, or city standard. Such mass limitation may be imposed through such user's industrial wastewater discharge permits. The total mass of pollutants allocated to all permitted industrial users shall not exceed the level specified below. Changes in local limits due to increased or decreased loading in the service area, or due to other special conditions, including but not limited to water quality stream standards, NPDES discharge permit limits, or other conditions as determined by the director, may cause a change in these allocations. Industrial users shall monitor and report daily flows as required by the wastewater contribution permit. Allocations may be revoked by the director and shall not be considered property rights.

Pollutant/Pollutant Property	Daily Maximum Allowable Industrial Load in Lbs/Day
Arsenic (Total)	0.0210
Cadmium (Total)	0.0064
Chromium—(VI) (Dissolved)	0.0907
Chromium—(III) (Dissolved)	0.2212
Copper (Total)	0.1405
Lead (Total)	0.0045
Manganese (Total)	0.5506
Mercury (Total)	0.0007
Molybdenum (Total)	0.0867
Nickel (Total)	0.1397
Selenium (Total)	0.0314
Silver (Total)	0.0170
Zinc (Total)	0.2993

2. *Mass limitations for non-permitted users.* The director of public works or his designated agent may impose mass limitations on non-permitted users. The total mass of pollutants allocated to all non-permitted users shall not exceed the level specified below. Changes in local limits due to increased or decreased loading in the service area, or due to other special conditions, including but not limited to water quality stream standards, NPDES discharge permit limits, or other conditions as determined by the director, may cause a change in these allocations. Non-permitted users shall monitor and report daily flows as required by the director. Allocations may be revoked by the director and shall not be considered property rights.

Pollutant/Pollutant Property	Daily Maximum Allowable Commercial Load in Lbs/Day
Arsenic (Total)	0.0021
Cadmium (Total)	0.0150
Chromium—(VI) (Dissolved)	0.2117
Chromium—(III) (Dissolved)	0.5160
Copper (Total)	0.3277
Lead (Total)	0.0104
Mercury (Total)	0.0017

Molybdenum (Total)	0.2024
Nickel (Total)	0.3260
Selenium (Total)	0.0732
Silver (Total)	0.0396
Zinc (Total)	0.6984

pH limitation: pH shall remain above 6.0 for permitted and non-permitted users.

Sec. 13.32.120. Reserved.

Sec. 13.32.125. Commercial, institutional or industrial surcharge.

Any user, "~~commercial~~" or "~~industrial user~~" as defined section 13.32.020 of this chapter, ~~by this section~~ discharging wastewater having an average daily concentration of BOD that is greater than 300 milligrams per liter or concentration of TSS greater 300 milligrams per liter, shall be subject to a surcharge rate. In addition to the surcharge rate for the above pollutants there will be an additional surcharge for excess oil and grease if the average daily concentration is greater than 100 milligrams per liter. The surcharge rate shall be paid in addition to the normal sewer charge computed according to the provisions of chapter 13.28. ~~At no time shall the discharge of any pollutants listed in section 13.32.120 result in a violation of any prohibited discharge standard established under this title 13 of this Code.~~

A. Surcharge rate for excess BOD, ~~and TSS, and oil and grease~~. The surcharge rate for BOD, ~~and TSS, and oil and grease~~ exceeding the base levels set forth in this section ~~13.32.125~~ shall be as established by resolution of the city council.

B. *Calculation of excessive pollutant surcharge.* Calculation of the surcharge for the POTW treatment of excess concentration of wastewater constituents discharged to the POTW sewer by ~~commercial or industrial~~ users, in accordance with this section, shall be subject to but not limited to, the following conditions:

1. Industrial users whose wastewater discharge is regulated by a duly issued permit, as provided for in section ~~13.32.070~~ 13.32.060, shall use the concentration of BOD, TSS and oil and grease reported in their discharge monitoring reports required under the provisions of this section to determine the applicable surcharge rate.

2. Commercial or industrial users of the POTW sewer not issued an industrial wastewater discharge permit but discharging significant concentrations of pollutants to the POTW may be monitored by POTW personnel. Surcharges may then be assessed according to the average quarterly concentrations of excessive pollutants discharged to the POTW as determined by the POTW wastewater monitoring program.

3. Commercial or industrial users of the POTW not monitored under the provisions of subsection B.1 and B.2 of this section may be assessed an excessive pollutant surcharge in accordance with established industry standard concentrations for wastewater constituents pursuant to the provisions of this section. Businesses potentially subject to the provisions of this section shall include, but are not limited to, restaurants, fast food services, hotels, commercial and industrial laundries, hospitals and clinics.

C. *Formula for calculation of excessive pollutant surcharge.* The surcharge for excessive pollutant discharge to the POTW, as provided for in chapter 13.28, shall be calculated in accordance with the following formula:

$Cs = [(Bc) (B) + (Sc) (S) + (Pc) (P)] \times (Vu) \times (8.34)$ where:

Cs	=	The monthly charge, in dollars, for POTW treatment of wastewaters with excessive concentrations of regulated constituents.
Bc	=	The operation and maintenance charge of treatment of one pound of pollutant.
B	=	The concentration of pollutants expressed in milligrams per liter, discharged by POTW user in excess of the established base level.
Sc	=	The operation and maintenance charge of treatment of one pound of pollutant.
S	=	The concentration of TSS expressed as milligrams per liter, discharged by a POTW user in excess of the established base level.
Pc	=	The operation and maintenance charge for treatment of any unit of pollutants as determined by the city council upon any future ordinance specifically applying to any pollutant.
P	=	The concentration of any pollutants, expressed in milligrams per liter, discharged by a POTW user in excess of an established base level.
Vu	=	The total volume of wastewater, in million gallons per day, discharged monthly by a user to the POTW.

Sec. 13.32.130. Enforcement.

If any user person violates any of the provisions of this chapter, or any of the terms and conditions of any wastewater discharge permit, the city or the public

works director, as the case may be, is authorized to take one or more of the following actions, as it or the director deems necessary and appropriate in the circumstances:

A. *Administrative fines and/or orders.* Notwithstanding any other section of this title 13 of this Code, any industrial user who is found to have violated any provision of this chapter, or of any permits and orders issued hereunder, and who has been served a notification of violation, shall be subject to an administrative penalty in an amount not to exceed \$1,000.00 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the public works department shall have such other collection remedies as they have to collect other service charges. Unpaid charges, fines and penalties shall constitute a lien against the individual user's property. Any industrial user which disputes such administrative penalty must file, within ten days of being notified of the penalty, a request with the public works director for reconsideration of the penalty. The public works director shall schedule and hold a hearing on the matter within 15 days of receiving the request from the industrial user.

B. *Notification of violation.* Whenever the Superintendent ~~director of public works~~ finds that any industrial user has violated or is violating this chapter, or a wastewater permit or order issued under this chapter, the Superintendent ~~director of public works~~ or his or her agent may serve upon such user written notice of the violation. Within ten days of the receipt date 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 to the Superintendent ~~director of public works~~. 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.

C. *Consent orders.* The Superintendent ~~director of public works~~ is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as compliance orders issued pursuant to subsection E of this section.

D. *Show cause hearing.* The Superintendent ~~director of public works~~ may order any industrial user which causes or contributes to violation of this chapter or wastewater permit or order issued under this chapter, to show cause why a proposed enforcement action not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

E. *Compliance order.* When the ~~Superintendent~~ director of public works finds that an industrial user has violated or continues to violate this chapter or a permit or order issued under this chapter, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

F. *Suspension.* The city may order wastewater treatment service, service connection permits, and wastewater discharge permits suspended if actual or proposed discharge endangers, or may reasonably endanger, individual health, safety or welfare, or the environment; or may cause interference in or to the POTW; or cause the city to violate any condition or terms of its NPDES permit. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Any such suspension order, unless an emergency suspension, shall become effective the day after the next regularly scheduled meeting of the city council which is at least five days after the date the suspension order is mailed.

G. *Emergency suspension.* The city may, without prior notice of hearing, order wastewater treatment service, service connections permits, and wastewater discharge permits immediately suspended if actual or proposed discharge immediately and substantially endangers individual health, safety, or welfare, or the environment, or may cause the city to violate any condition of its NPDES permit. Any such emergency suspension order shall become effective immediately, and any person notified of such suspension shall immediately stop or eliminate all discharge of industrial waste. The city is also authorized, in such severance of the sewer connection, to prevent or minimize danger or property damage.

H. *Reinstatement.* Any suspended service or permit shall be reinstated upon proof of elimination of the violation, payment of all costs and expenses incurred by the city in connection with the suspension and approval by the city of a satisfactory plan to prevent future such violations.

I. *Revocation.* The city may order wastewater treatment service permanently terminated, and wastewater discharge permits revoked if it has found it necessary to make a suspension order or emergency suspension order more than three times in any 12-month period. Any such revocation order shall become effective the day after the next regularly scheduled meeting of the city council which is at least five days after the date the revocation order is mailed, unless the city council, on appeal by the affected person shall reverse the order or stay its effect. Additionally, the city may revoke a wastewater discharge permit for good cause, including, but not limited to, 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 conditions pursuant to section 13.32.080(E) ~~13.32.070.A.3~~ of this chapter;
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;
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
13. Violation of any pretreatment standard or requirement, any terms or conditions of the wastewater discharge permit, or any terms or requirements of this chapter.

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

J. *Order.* If deemed necessary to prevent danger, property damage, or interference with the POTW, the city may order a user to provide pretreatment; flow rate control; suitable access facilities, such as a manhole or vault; and periodic sampling, testing, and reporting of the quality and quantity of wastewater being discharged. Any such order shall become effective at the time specified therein, unless the city council, on appeal by the effected person, shall reverse the order or stay its effect.

K. *Notice.* Any notice or order issued under this section shall be served personally, or by registered or certified mail, return receipt requested to the billing or street address of the user.

Sec. 13.32.140. Appeal.

A. *Notice.* Any person desiring to appeal any order or determination of the city shall file a written notice of appeal with the city clerk within 15 days of

such order or determination. Such notice or appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and shall request a hearing before the city council.

B. *Date of hearing.* On receipt of a notice of appeal, the city clerk shall set it for hearing at the next regularly scheduled city council meeting, if such meeting is at least five days following receipt of the notice of appeal, otherwise for the next meeting thereafter. Notice of the time, date, and place for the hearing shall be mailed to the party filing the notice of appeal. The city council may continue the hearing from time to time thereafter, as it deems necessary, without further notice.

C. *Conduct of hearing.* The city council shall act as a quasi-judicial body in the conduct of the hearing. The party appealing and the city shall each have the opportunity to present evidence and arguments in support of their positions, and shall have the right to be represented by an attorney, if they so desire. The city council may affirm, reverse, or modify the order or determinations previously made. The findings and decision of the city council shall be mailed to the appealing party, in the manner provided in section 13.32.130(K). ~~subsection 13.32.120.F~~. In addition, the city council may stay any order pending resolution of an appeal.

Sec. 13.32.150. Penalties and remedies.

In addition to any other penalties and remedies of the city, the following shall be applicable:

A. *Civil penalties.* Any industrial user who has violated or continues to violate this or any order or permit issued under this chapter, shall be liable to the city for a civil penalty of not more than \$1,000.00 per day per violation for as long as the violation continues. In addition to the above described penalty and damages, the Superintendent ~~director of public works~~ may recover on behalf of the city reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. The Superintendent ~~director of public works~~ is authorized on behalf of the city to petition the municipal or district court to impose, assess, and recover such sums. In determining the amount of liability, the court may 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 industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

B. *Civil liability for expenses.* Any person violating the provisions of this chapter or any applicable state or federal regulations or any terms and conditions of the wastewater discharge permit, shall be liable for any expense, loss, or damage caused the POTW by reason of such violation, including the increased costs, if any, for managing effluent or sludge when such increases are the result of the user's discharge of toxic pollutants.

C. *Criminal penalties.* No person shall dispose of harmful wastes or wastewater or use the city's sanitary sewers or POTW or cause the disposal of harmful waste or wastewater to be done contrary to or in violation of any provisions

of this chapter. Any person violating any of the provisions of this chapter or any permit issued hereunder shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation occurs and shall be punished by a fine not exceeding the maximum fine set forth in section 1.28.010.A. of this Code per violation, or by imprisonment not exceeding 90 days per violation, or by both such fine and imprisonment. Such penalties shall be in addition to any administrative remedies or such other liabilities provided for in this chapter.

D. *Injunctive relief.* The city may petition the district court for injunctive relief restraining any person from the continued violation of this chapter.

E. *Civil fine pass-through.* In the event that a user discharges such pollutants which cause the POTW to violate any condition of its NPDES permit and if the city is fined by the EPA or the state for such violation, such user shall be fully liable for the total amount of the fine assessed against the city, by the EPA or the state.

F. *Falsifying information and tampering.* No person shall knowingly make any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to the terms of this chapter or wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required here shall, upon conviction, be punished by a fine not exceeding the maximum fine set forth in section 1.28.010.A. of this Code per violation, or by imprisonment not exceeding 90 days per violation, or by both such fine and imprisonment.

G. *Performance bonds.* The ~~Superintendent~~ ~~director of public works~~ may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, letter of credit or other suitable guarantee payable to the POTW, in a sum determined by the ~~Superintendent~~ ~~director of public works~~ to be necessary to achieve consistent compliance.

H. *Liability insurance.* The ~~Superintendent~~ ~~director of public works~~ may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this chapter or any order or previous permit issued under this chapter, unless the industrial user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

I. *Payment of outstanding fees and penalties.* The city may decline to issue or reissue a wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder.

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

Sec 13.32.160 Affirmative defenses to discharge violations.

A. Upset.

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

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

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

(a) An upset occurred and the User can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(c) The User has submitted the following information to [the Superintendent] within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

(i) A description of the indirect discharge and cause of noncompliance;

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

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

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

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

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

B. Prohibited Discharge Standards.

1. A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the section 13.32.040 of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

(a) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

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

C. Bypass.

1. For the purposes of this section:

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

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

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

3. Bypass Notifications.

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

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

4. Bypass.

(a) Bypass is prohibited, and the Superintendent may take an enforcement action against a User for a bypass, unless:

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

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

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

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

Sec. ~~13.32.170.~~ 13.32.160. Severance clause.

If any article, section, paragraph, sentence, clause, or phrase of this chapter is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this chapter. The city council hereby declares that it would have passed this chapter and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid or unconstitutional.

Sec. ~~13.32.170.~~ Industrial user categories.

~~All industrial user categories as defined in 40 CFR 405 through 471 as amended or as such regulations may be subsequently amended.~~

Sec. ~~13.32.180.~~ Sampling schedule for permitted industries.

~~Permitted industries must monitor and then enter into a sampling schedule as required by the city. The city sampling and analysis shall also be made as determined by the city. The city shall also provide a schedule showing specific pollutants limitations.~~

Section 2. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this ____ day of _____, 2022.

Ashley Stolzmann, Mayor

ATTEST:
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this _____ day of _____, 2022.

Ashley Stolzmann, Mayor

ATTEST:

Meredyth Muth, City Clerk