

# ORDINANCE NO. 807

## AN ORDINANCE AMENDING CHAPTER 12.07 OF THE TROUTDALE MUNICIPAL CODE, PRETREATMENT PROGRAM.

### THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. By Permit Action Letter of March 17, 2006, the Department of Environmental Quality (DEQ) formally delegated to the City the authority to implement the industrial pretreatment program. By this letter, the pretreatment program documents were also approved by DEQ and the Environmental Protection Agency (EPA).
2. In July 2006, EPA adopted "streamlining rules" amending the minimum legal authority requirements for implementation of the industrial pretreatment program.
3. An audit of the City's industrial pretreatment program by DEQ in September 2008 identified elements of the City's legal authority that did not meet the minimum federal requirements.
4. The City's National Pollutant Discharge Elimination System (NPDES) permit requires the City to amend its legal authority to meet the minimum federal requirements.

### NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE


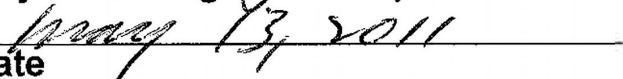
Section 1. Troutdale Municipal Code, Sections, 12.07.030, 12.07.040, 12.07.140, 12.07.240, 12.07.300, 12.07.310, 12.07.360, 12.07.410, 12.07.430, 12.07.470, and 12.07.660 are hereby amended to read as set forth in Attachment A.


Section 2. This Ordinance is effective 30 days following adoption.

YEAS: 6

NAYS: 0

ABSTAINED: 0

  
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Mayor Jim Kight  
  
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Date

  
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Debbie Stickney, City Recorder  
Adopted: May 10, 2011

**12.07.030 Definitions**

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

“Accidental Spill Prevention/Slug Control Plan (ASPP)” means a plan prepared by the user which provides protection for the POTW from accidental or intentional discharges of materials which may cause interference, pass through, worker health or safety problems, or damage to the POTW.

“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 State of Oregon Department of Environmental Quality (DEQ).

“Authorized Representative of the User” means:

- (1) If the user is a corporation:
  - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (b) The manager of one or more manufacturing, production, or operation facilities provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing by the individual described in paragraph 1 through 3 above, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

“Best Management Practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 12.07.040 of this chapter. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“Biochemical Oxygen Demand (BOD)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

“Categorical Pretreatment Standard” or “Categorical 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. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

“City” means the City of Troutdale, Oregon, a municipal corporation of the State of Oregon, acting through its City Council or any board, committee, body, official, or person to whom the Council shall have lawfully delegated the power to act for or on behalf of the City.

“Composite sample” means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

“Control Authority” means the City of Troutdale, Oregon.

“Director” 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, or a duly authorized representative.

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

“Existing Source” means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

“FOG” means fats, oils and grease.

“FOG, nonpolar” means fats, oils and grease that are petroleum based.

“FOG, polar” means fats, oils and grease generated from animal and vegetable origins.

“Grab Sample” means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

“Hauled waste” means any waste trucked or hauled, including septic tank waste and non-septic waste with hazardous characteristics.

“Indirect Discharge” or “Discharge” means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

“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.

“Interceptor” means a device designed and installed so as to adjust, separate and retain deleterious, hazardous or undesirable matter from wastewater and to permit normal sewage or liquid wastes to discharge from the user’s premises into the POTW.

“Interference” means discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City’s NPDES

permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

“Manual” or “The Manual” refers to the City’s Industrial Pretreatment Operation and Program Implementation Manual, and any amendments thereto.

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

“National Pretreatment Standard” means any regulation containing pollutant discharge limits promulgated by the 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 40 CFR 403.5.

“New Source” means:

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(C) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (a) Begun, or caused to begin, as part of a continuous onsite construction program
    - (i) any placement, assembly, or installation of facilities or equipment; or

- (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

“Non-contact Cooling Water” means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

“Non-Discharging Categorical Industrial User (NDCIU)” means non-discharging industries that have industrial processes that would otherwise be subject to national pretreatment standards, including NDCIUs with zero discharge categorical standards.

“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 City’s NPDES permit, including an increase in the magnitude or duration of a violation.

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

“pH” means a measure of the acidity or alkalinity of a solution, expressed in standard units.

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

“Potential to Discharge” means hard plumbing connected to the POTW’s sanitary sewer. This includes plumbing with shut-off valves and plumbing that has been plugged with temporary or removable plugs. Plumbing that has been permanently disconnected or cemented shut would not constitute a potential to discharge.

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

“Pretreatment Requirements” means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

“Pretreatment Standards” or “Standards” means prohibited discharge standards, categorical pretreatment standards, and local limits.

“Prohibited Discharge Standards” or “Prohibited Discharges” means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 12.07.040 of this chapter.

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

“Return to compliance” means user is complying with the pretreatment requirements outlined in a permit, compliance schedule, or other agreement or order as outlined by the City and is discharging in compliance with applicable effluent limits.

“Septic Tank Waste” means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

“Sewage” means human excrement and gray water (household showers, dishwashing operations, etc.).

“Significant Industrial User” means (except as provided in subsection 3 of this definition):

(1) A user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(2) A user that:

- (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
- (b) Contributes a process wastewater stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
- (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.

(3) The City may determine that an Industrial User subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N 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:

- (a) The Industrial User, prior to the City’s finding, has consistently complied with all applicable categorical pretreatment standards and Requirements;
- (b) The Industrial User annually submits the certification statement required in 40 CFR 403.12(q), signed and certified in accordance with Section 12.07.210, together with any additional information necessary to support the certification statement; and
- (c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a

petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

“Slug Load” or “Slug Discharge” means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 12.07.40 of this chapter. A “Slug Discharge” is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW’s regulations, local limits or permit conditions.

“Standard Industrial Classification (SIC) Code” means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

“Storm Water” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

“Total Suspended Solids (TSS)” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

“User” or “Industrial User” means a source of indirect discharge.

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

“Wastewater Treatment Plant” or “Treatment Plant” means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

#### **12.07.040 Prohibited Discharge Standards**

- A. General Prohibitions. Discharge of industrial wastes into the POTW is prohibited unless in compliance with this chapter. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - 1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - 2. Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
  - 3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2”) or 1.27 centimeters in any dimension;
  - 4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

5. Wastewater having a temperature greater than 76.5°F (24.7°C), unless in accordance with the City's thermal load policy, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which exceeds 140°F (60°C);
  6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  8. Trucked or hauled pollutants;
  9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
  10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
  11. Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations;
  12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, including drainage resulting from Infiltration and Inflow through the User's service line, roof drains, catch basins, unroofed area drains or any other source, unless specifically authorized by the Director.
  13. Sludges, screenings, or other residues from the pretreatment of industrial wastes or industrial processes;
  14. Medical or infectious wastes, except as specifically authorized by the Director in a wastewater discharge permit;
  15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
  16. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
  17. Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l.
  18. Any discharge that, in the opinion of the Director could cause the City to violate the terms of its NPDES permit or could constitute a violation of state or federal laws.
- B. 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.

#### **12.07.140 Accidental Spill Prevention/Slug Control Plans**

- A. General provisions. All users, as required by the Director, shall provide protection from accidental or intentional discharges of materials, which may interfere with or cause pass through to the POTW, by developing and implementing a slug control/accidental spill



prevention plan (ASPP). Facilities necessary to prevent the discharge of prohibited or restricted substances shall be provided and maintained at the user's cost and expense. An ASPP showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation of the plan. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this chapter. The ASPP shall be posted and available for inspection at the facility during normal business hours.

- B. Specific provisions. The Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Director may develop such a plan for any user.
- C. An accidental spill prevention/slug 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 POTW of any accidental or slug discharge, as required by Section 12.07.360 of this chapter;
  - 4. Procedures for submitting written report within five (5) days of any accidental or slug discharge, as required by Section 12.07.360(B) of this chapter; and
  - 5. 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.

#### **12.07.240 Wastewater Discharge Permit Contents**

- A. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.
- B. Wastewater discharge permits must contain:
  - 1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
  - 2. A statement that the wastewater discharge permit is nontransferable without prior notification and approval from the City in accordance with Section 12.07.270 of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  - 3. Effluent limits, including Best Management Practices, based on applicable federal pretreatment standards, or local limits, whichever is most restrictive;
  - 4. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants

to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
6. 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, if deemed to be necessary by the City.

C. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
3. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
4. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
5. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
6. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
7. Requirements for immediate reporting of any instance of noncompliance and for automatic re-sampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
8. Compliance schedules for meeting pretreatment standards and requirements.
9. Requirements for maintaining and retaining plant records relating to wastewater discharge and affording the Director, or his representatives, access thereto.
10. Requirements for prior notification and approval by the Director of any new introduction of wastewater pollutants or of any change in the volume or character of the wastewater prior to introduction in the system.
11. Requirements for the prior notification and approval by the Director of any change in the manufacturing and/or pretreatment process used by the permittee.
12. Requirements for immediate notification of excessive, accidental or slug discharges, or any discharge which could cause any problems to the POTW.

13. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
14. Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, and regulations.

**12.07.300 Regulation of Waste Received from Other Jurisdictions**

- A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Director shall enter into an intergovernmental agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the Director shall request the following information from the contributing municipality:
  1. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  2. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
  3. Such other information as the Director may deem necessary.
- C. An intergovernmental agreement, as required by paragraph A, above, shall contain the following conditions:
  1. A requirement for the contributing municipality to adopt a sewer use chapter which is at least as stringent as this chapter and local limits which are at least as stringent as those set out in Section 12.07.070 of this chapter and specify that such chapter and limits must be revised as necessary to reflect changes made to the City's chapter or local limits; or provide that the contributing municipality will require compliance with this chapter;
  2. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
  3. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality and the Director;
  4. A requirement for the contributing municipality to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
  6. Requirements for monitoring the contributing municipality's discharge;
  7. A provision ensuring the Director access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director; and

8. A provision specifying remedies available for breach of the terms of the intergovernmental agreement.

#### **12.07.310 Baseline Monitoring Reports**

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in subsection B of this paragraph. At least ninety (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 Director a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
  1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
  2. Environmental Permits. A list of any environmental control permits held by or for the facility.
  3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
  4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
  5. Measurement of Pollutants.
    - a. The categorical pretreatment standards applicable to each regulated process.
    - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 12.07.400 of this chapter. 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.
    - c. The User shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph.

- d. Sampling must be performed in accordance with procedures set out in Section 12.07.410 of this chapter and certified.
  - e. The City may allow the submission of a baseline monitoring report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
6. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 12.07.320.
  7. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 12.07.210, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.

#### **12.07.360 Reports of Potential Problems**

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, date and time thereof, type of waste, concentration and volume, if known, and corrective actions taken by the user. Any affected user shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal laws.
- B. Within five (5) days following such discharge, the user shall, unless waived by the Director, submit to the Director a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter or other applicable law.
- C. A notice shall be permanently posted in conspicuous places advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- D. A Significant Industrial User is required to notify the Director immediately of any changes at its facility affecting the potential for a slug discharge.

#### **12.07.410 Sample Collection**

- A. Except as indicated in subsection B of this section, the user must collect wastewater samples using flow-proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where

time-proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

- B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- A. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the City and contained in the user's wastewater discharge permit. For categorical dischargers, 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 40 CFR 403.6 (e) in order to evaluate compliance with the applicable federal pretreatment standards.
- D. All sample results shall indicate the time, date and location of sampling; methods of analysis, date of and person performing analysis; and a certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed, using methodologies in 40 CFR Part 136, more frequently than what was required in its wastewater discharge permit, user shall submit all results of sampling and analysis of the discharge as part of user's self-monitoring report.
- E. The possession and handling of a sample from the time of collection through the time of disposal shall be documented on a chain of custody form. The actual person collecting the sample shall fill out the chain of custody form at the time of sampling. The chain of custody form shall be completed by all persons in possession of the sample until it is ultimately received at an analytical laboratory and disposed of. The chain of custody record shall be retained by the user and shall become part of the analysis documentation. If the user fails to retain proper and complete chain of custody documentation, analysis for the sample in question will be invalidated and the user shall sample again.
- F. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 12.07.310 and 12.07.330, a minimum of four (4) grab samples must be used for temperature, pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical data does not exist; for facilities for which historical sampling data are available, the Director may authorize a lower number of samples. For the reports required in Section 12.07.340, the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with the applicable Pretreatment Standards and Requirements.

#### **12.07.430 Record Keeping**

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 and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established in Section 12.07.070. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses;

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

**12.07.470 Publication of Users in Significant Noncompliance**

- A. The Director shall publish annually in January, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- B. The term significant noncompliance shall be applicable to all Significant Industrial Users, and to any other Industrial User that violates paragraphs 3, 4 or 8 of this Section, and shall mean:
  - 1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits;
  - 2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
  - 3. Any other violation of a Pretreatment Standard or Requirement 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);
  - 4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;
  - 5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - 6. Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - 7. Failure to accurately report noncompliance; or
  - 8. Any other violation(s) which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

**12.07.660 Upset**

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards

because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection C of this section, are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - 1. An upset occurred and the user can identify the cause(s) of the upset;
  - 2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - 3. The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
    - a. A description of the indirect discharge and cause of noncompliance;
    - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only if an enforcement action is brought for noncompliance with categorical pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.