

CHAPTER 171. WASTEWATER PRETREATMENT¹

GENERAL PROVISIONS

Sec. 171.00. Purpose and policy.

To protect human health and the environment, this chapter sets forth uniform requirements for users of the publicly owned treatment works (POTW) for the City of Carrollton and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.), the General Pretreatment Regulations (40 Code of Federal Regulations Part 403), and the State Pretreatment Regulations as adopted in 30 TAC, Chapter 315. This chapter continues, with some revisions, the pretreatment program established by the city in the 1965 Code of Ordinances. The objectives of this chapter are:

- (A) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation, or contribute to biological impairment of the publicly owned treatment works;
- (B) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (C) To ensure the quality of treatment plant sludge to allow its use and disposal in compliance with statutes and regulations;
- (D) To protect both publicly owned treatment works personnel, who may be affected by wastewater and sludge in the course of their employment, and the safety, health and welfare of the general public;
- (E) To promote pollution prevention, waste minimization and the reuse and recycling of industrial wastewater and sludge from users and the publicly owned treatment works;
- (F) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
- (G) To enable the Control Authority to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This chapter shall apply to all users of the publicly owned treatment works. The chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. 2768, passed 2-4-03)

¹Editor's note(s)—Ord. 2768, §§ 1, 2, passed Feb. 4, 2003, amended the Code by repealing former Ch. 171, §§ 171.01—171.20, 171.99, and enacted a new Ch. 171 as set out herein. Former Ch. 171 pertained to industrial wastewater and derived from the 1965 Code; Ord. 534, passed July 2, 1973; Am. Ord. 1092, passed Feb. 21, 1984; and Am. Ord. 1761, passed Dec. 17, 1991.

Sec. 171.01. Administration.

The City Manager and/or his Designate shall administer, implement, and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon the City Manager and/or his Designate may be delegated by them to other city personnel or authorized representatives.

(Ord. 2768, passed 2-4-03)

Sec. 171.02. Abbreviations.

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

°C -	Degrees Celsius (or Centigrade)
°F -	Degrees Fahrenheit
BMR -	Baseline Monitoring Report (for definition, see section 171.29)
BOD -	Biochemical Oxygen Demand (for definition, see section 171.03)
CFR -	Code of Federal Regulations
CMR -	Compliance Monitoring Report, an analytical report for sampling conducted by the city
COD -	Chemical Oxygen Demand (for definition, see section 171.03)
DCO -	Designated City Official (for definition, see section 171.03)
DMR -	Discharge Monitoring Report, an analytical report for sampling conducted by a user, reported to the city
EPA -	U.S. Environmental Protection Agency (USEPA)
gpd -	Gallons per day
mg/l -	Milligrams per liter; a weight-to-volume ratio, metric equivalent to parts per million (ppm)
NPDES -	National Pollutant Discharge Elimination System (for definition, see section 171.03)
O&M -	Operation and Maintenance
pH -	Term defined in section 171.03
POTW -	Publicly Owned Treatment Works (for definition, see section 171.03)
RCRA -	Resource Conservation and Recovery Act
SIC -	Standard Industrial Classification (for definition, see section 171.03)
SIU -	Significant Industrial User (for definition, see section 171.03)
SNC -	Significant Noncompliance (for definition, see section 171.28)
TCEQ -	Texas Commission on Environmental Quality
TPDES -	Texas Pollutant Discharge Elimination System
TRA -	Trinity River Authority of Texas; the Control Authority
TRC -	Technical Review Criteria (for definition, see section 171.28)
TSS -	Total Suspended Solids (for definition, see section 171.03)
TTO -	Total Toxic Organics (for definition, see section 171.03)
U.S.C. -	United States Code

(Ord. 2768, passed 2-4-03)

Sec. 171.03. Definitions.

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

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Act or the Act. The Federal Water Pollution Control Act, § 101 et seq., also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

Approval authority. The Regional Administrator of EPA or the director of a state agency delegated to act on EPA's behalf with an approved pretreatment program (e.g. Director of TCEQ).

Approved. Means the city accepts as satisfactory, based upon the data available, or that there is not an objection with the proposal submitted. However, it is not the city's responsibility to certify that such acceptance will actually demonstrate compliance with existing or future regulations. It is the sole responsibility of the person seeking approval to demonstrate compliance with this chapter or other applicable regulations.

Authorized representative of the user.

- (A) If the user is a corporation:
- (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (B) If the 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 divisions (A) through (C) above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Centigrade (68 degrees Fahrenheit), expressed as mg/l.

Categorical pretreatment standard or categorical standard. 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.

Chain of custody. A written record of sample possession for all persons who handle (collect, transport, analyze, dispose of) a sample, including names, dates, times and procedures followed. The purpose is to ensure the integrity of the sample so that it may be admissible as evidence in court.

Chemical oxygen demand or COD. Measure of the oxygen consuming capacity of inorganic or organic matter present in the water or wastewater, expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter, and thus not necessarily correlating with BOD.

City. The City of Carrollton, or any delegated personnel or authorized representatives of the municipality.

Composite sample. A sample that is collected over time formed either by continuous sampling or by mixing discrete or grab samples. The sample may be composited either as a:

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- (A) Time proportional composite sample: composed of discrete sample aliquots collected at constant time intervals, providing a sample irrespective of stream flow; or as a
 - (B) Flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases, while maintaining a constant time interval between the aliquots.

Control authority. Trinity River Authority of Texas (TRA) as holder of the NPDES permit.

Control manhole. A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Designated city official or DCO. The City Manager. The term may include the City Manager's designee or delegated staff or duly authorized representative of the City Manager.

Discharge. To deposit, conduct, drain, emit, throw, run, cause, allow to seep or otherwise release or dispose of, or to cause, allow, permit or suffer any of these acts or omissions, or the act of discharging.

Enforcement response plan. A policy document by the DCO, required by 40 CFR 403.9, that describes the city's pretreatment program, including general and specific user requirements, guidance for pretreatment enforcement criteria and procedures, outlines of available enforcement actions and a guide for implementing enforcement responses.

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

Existing source. 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.

Grab sample. A sample which is collected from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

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

Interceptor. A device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Interference. A 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 Control Authority's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or 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); 40 CFR 503 sludge regulations; any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act and 30 TAC 312; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Medical waste. Waste from medical facilities or providers (e.g., 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).

NPDES (National Pollutant Discharge Elimination System). National Pollutant Discharge Elimination System permit program of the Environmental Protection Agency, and/or the permit program of the state agency delegated to act on EPA's behalf with an approved pretreatment program (e.g. TPDES or Texas Pollutant Discharge Elimination System).

New source.

- (A) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
- (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility, or installation substantially replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (B) Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (A)(2) or (3) above, but otherwise alters, replaces, or adds to existing process or production equipment.
- (C) Construction of a new source as defined under this section has commenced if the owner or operator has:
- (1) Begun, or caused to begin, as part of a continuous on-site construction program
 - (a) Any placement, assembly, or installation of facilities or equipment; or
 - (b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

Normal wastewater. Wastewater which the average concentration of TSS and five-day BOD does not exceed 250 mg/l each, and which has characteristics typical of domestic wastewater.

Pass through. 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 Control Authority's NPDES permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH. The logarithm of the reciprocal of the hydrogen-ion concentration of a solution and taken to represent the acidity or the alkalinity of an aqueous solution expressed in standard units (S.U.).

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

Pretreatment. 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 specifically allowed by an applicable pretreatment standard.

Pretreatment requirements or requirements. Any substantive or procedural mandate related to pretreatment imposed on a user, other than a pretreatment standard, (e.g., wastewater discharge permit conditions and modifications, enforcement response plan directives, and administrative enforcement remedies).

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 171.04 of this chapter.

Publicly owned treatment works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned by the city and/or the Control Authority. 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, (e.g. the sanitary sewer system and treatment plant).

Septic tank waste. Any sewage from holding tanks (e.g., vessels, chemical toilets, campers, trailers, motor homes and septic tanks).

Sewage. Refuse liquids and waste matter, including human excreta, household or domestic type wastewater, graywater (from showers, bathtubs or clothes washing operations), but not wastes from commercial or industrial processes.

Sewer. Any pipe or conduit used to collect and carry away liquids, e.g. sewage or stormwater from the generating sources to treatment plants or receiving streams. Public sewers are subject to the control of the city, and may be used by owners of abutting properties. A sanitary sewer is a public sewer, part of the POTW that is designed to convey wastewater, and not storm, surface or groundwater. A building sewer is the privately maintained extension from the building drains to the public sanitary sewer (also called house lateral or house connection). Sewers in this chapter refer to sanitary sewers. A storm sewer or storm drainage system is a public sewer designed to convey storm and surface water and drainage, and from which wastewater and pollutants are prohibited. A combined sewer to carry both stormwater runoff and wastewater (e.g. sewage) is prohibited.

Shall is mandatory; *may* is permissive or discretionary.

Significant industrial user (SIU).

- (A) A user subject to categorical pretreatment standards; or
- (B) A user that:
 - (1) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding noncontact cooling water, sewage and boiler blowdown wastewater);
 - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) Is designated as such by the city on the basis that the user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement.

(C) Upon a finding that a user meeting the criteria in division (B) 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. Any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or noncustomary batch discharge.

State. State of Texas.

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

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

Total suspended solids or TSS. 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.

Total toxic organics or TTO. The sum of the masses or concentrations of toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in industrial users' discharges at a concentration greater than 0.01 mg/l. Only those parameters reasonably suspected to be present, to be determined by the DCO, if any, shall be analyzed for with noncategorical industries. With categorical industries, TTOs will be sampled for as stipulated in the particular category or those parameters reasonably suspected to be present, at the discretion of the DCO, where not stipulated.

User. Any person who discharges, or desires to discharge, to the POTW,

(A) Any mixture of waste (resulting from any process of industry, manufacturing, trade or business) with water or normal wastewater, or

(B) Wastewater distinct from normal wastewater.

Wastewater. Both liquid and water-carried pollutants, e.g. industrial wastes and sewage, from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with inflow and infiltration that may be present, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or treatment plant. That portion of the POTW that is designed to provide wastewater reclamation through the treatment of municipal sewage and industrial waste under the conditions of an NPDES permit.

(Ord. 2768, passed 2-4-03)

Cross reference(s)—Definitions generally, § 10.05; rules of construction generally, § 10.06.

GENERAL SEWER USE REQUIREMENTS

Sec. 171.04. Prohibited discharge standards.

(A) *General prohibitions.*

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- (1) No person or user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference.
 - (2) The sanitary sewer system shall be used for the discharge and/or disposal of wastewater, unless prohibited by this chapter, or exception is granted by the city or statute.
 - (3) No person or user shall discharge or deposit wastewater, liquid waste or pollutants on public or private property, in or adjacent to, any:
 - (a) Natural outlet into a watercourse, ditch, creek, stream, lake or other body of surface water or groundwater;
 - (b) Storm sewer inlet or conveyance that receives stormwater;
 - (c) Part of the storm drainage system of the city; or
 - (d) Other area within the jurisdiction of the city that could allow the pollutants, carried by stormwater, to deteriorate or diminish the water quality of surface water or groundwater.
 - (4) These general prohibitions apply to all persons and/or 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, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater with a pH of less than 5.5 or more than 11.0 standard units;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, blockage, or damage to the POTW;
 - (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 150 degrees Fahrenheit (65 degrees Centigrade), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Centigrade);
 - (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 health and safety problems for POTW workers or the public;
 - (8) Trucked or hauled pollutants or wastewater, except at discharge points designated by the DCO and in accordance with chapter 172 of this Code;
 - (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 applicable NPDES permit;

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- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
 - (12) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted wastewater, unless specifically authorized by the DCO;
 - (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
 - (14) Medical wastes, except as specifically authorized or approved by the DCO;
 - (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 or contribute to excessive foaming in the POTW or its effluent;
 - (17) Fats, oils, or greases of animal, vegetable or petroleum origin in concentrations greater than 200 mg/l;
 - (18) A discharge of water, normal domestic wastewater, or industrial waste which in quantity of flow exceeds, for a duration of longer than 15 minutes, more than four times the average 24-hour flow during normal operations of the industry;
 - (19) Pesticides, e.g. insecticides, herbicides, fungicides, in concentrations that are not amenable to treatment;
 - (20) Polychlorinated biphenyls;
 - (21) Garbage that is not properly shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in wastewater mains, with no particle having greater than one-half inch cross-sectional dimension;
 - (22) Wastewater or industrial waste generated or produced outside the City of Carrollton, unless approval in writing from the DCO has been given to the person discharging the waste; or,
 - (23) A substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste or chemical toilet waste that is of a toxic or hazardous nature, regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products, unless approval in writing from the DCO has been given to the person discharging the waste.
 - (24) Any wastewater containing total toxic organics (TTO) greater than 2.13 mg/l.
- (C) 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.
- (Ord. 2768, passed 2-4-03)

Sec. 171.05. National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated:

- (A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the DCO may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the DCO shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. 2768, passed 2-4-03)

Sec. 171.06. Stormwater and other unpolluted drainage.

(A) No person or user may discharge to public sanitary sewers:

- (1) Unpolluted stormwater, surface water, groundwater, roof runoff or surface drainage; or,
- (2) Other unpolluted drainage.

(B) In compliance with the Texas Water Quality Act, TPDES and other statutes, the city may designate storm sewers and other watercourses into which unpolluted drainage described in subsection 171.06(A) may be discharged.

(Ord. 2768, passed 2-4-03)

Sec. 171.07. Local limits.

(A) The following pollutant limits are established to protect against pass through and interference. No person shall discharge, or cause or permit to be discharged, wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

- (1) 0.2 mg/l arsenic.
- (2) 0.1 mg/l cadmium.
- (3) 2.9 mg/l chromium.
- (4) 2.3 mg/l copper.
- (5) 0.5 mg/l cyanide.
- (6) 0.9 mg/l lead.
- (7) 0.0004 mg/l mercury.
- (8) 0.8 mg/l molybdenum.
- (9) 4.6 mg/l nickel.
- (10) 0.1 mg/l selenium.
- (11) 0.8 mg/l silver.
- (12) 8.0 mg/l zinc.

(B) The above limits apply at the point where the wastewater is discharged to the POTW or at an approved control manhole. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The DCO may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(Ord. 2768, passed 2-4-03; Am. Ord. 3281, passed 2-3-09)

Sec. 171.08. City's right of revision.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, changes to standards or requirements on discharges to the POTW.

(Ord. 2768, passed 2-4-03)

Sec. 171.09. Dilution.

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

(Ord. 2768, passed 2-4-03)

Sec. 171.10. Plant loading.

- (A) No user shall discharge wastewater containing a BOD or TSS loading that causes the city's pro rata share of the total BOD or TSS loading to the Control Authority's POTW system to exceed the city's pro rata share of the total flow to the Control Authority's POTW system.
- (B) Any user with a wastewater strength that will cause the city's cumulative wastewater loading, at the city's points of entry to the TRA system, to exceed the city's pro rata share of the total wastewater loading based upon flow, shall be required to install pretreatment facilities to reduce its wastewater strength to an acceptable level.

(Ord. 2768, passed 2-4-03)

PRETREATMENT OF WASTEWATER

Sec. 171.11. Pretreatment facilities and plans review.

- (A) 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 out in section 171.04 of this chapter within the time limitations specified by EPA, the state, or the DCO, whichever is more stringent.
- (B) Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense.
- (C) Detailed plans describing such facilities and operating procedures shall be submitted to the DCO for review, and shall be acceptable to, and approved by the DCO 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.
- (D) Any user responsible for wastewater discharges through a building sewer, may be required, at the user's expense, to:
 - (1) Install an approved control manhole in a location approved for accessibility and safety, and which allows for representative sampling of regulated waste streams;

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- (2) Install approved pretreatment equipment and other devices to facilitate observation, sampling and measurement of the discharge;
 - (3) Maintain the equipment and facilities as needed, or as required by the DCO.

(Ord. 2768, passed 2-4-03)

Sec. 171.12. Additional pretreatment measures.

- (A) Whenever deemed necessary, the DCO may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and require such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
- (B) The DCO may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (C) Grease, oil, or sand interceptors and sample access shall be provided at the user's expense, when, in the opinion of the DCO, they are necessary for the proper management of wastewater which may contain amounts of grease and oil, sand and grit, or other pollutants prohibited by this chapter. All traps/interceptors shall:
 - (1) Be of a type, capacity and location approved by the DCO;
 - (2) Be easily accessible for cleaning and inspection;
 - (3) Be cleaned and repaired as needed;
 - (4) Be installed with approved sample access, when required; and,
 - (5) Be upgraded in capacity or to provide for sample access, when required.
- (D) Interceptors shall be cleaned and maintained so that pollutants do not overload the skimming and settling capacity of the interceptor, or discharge grease, oil, grit or other pollutants in a manner or amount that restricts or clogs any sewer line.
- (E) Users with the potential to discharge flammable substances shall be required to install and maintain an approved trap, combustible gas detection meter, or other control devices.

(Ord. 2768, passed 2-4-03)

Sec. 171.13. Slug control plans.

- (A) The DCO shall evaluate at least once every two years whether each permitted significant industrial user needs a slug control plan.
- (B) The DCO may require any user to develop, submit for approval, and implement such a plan.
- (C) A 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 DCO and TRA of any slug discharge, as required by section 171.34 of this chapter; and,

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- (4) Procedures to prevent adverse impact from any 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.

(Ord. 2768, passed 2-4-03)

Sec. 171.14. Hauled wastewater.

- (A) Septic tank waste may be introduced into the POTW only on conditions established by the DCO, e.g. at designated locations and times.
- (B) Septic tank waste shall not be discharged in violation of the general sewer requirements of this chapter or any other requirements established by the city, such as in chapter 172, on liquid waste.
- (C) Both nonhazardous and RCRA hazardous liquid wastes transported within the city shall comply with applicable federal, state and local requirements, e.g. proper identification on the transport vehicles, use of an approved waste-tracking form that identifies all generators for each load, known or suspected waste contamination, and whether any constituents are RCRA hazardous wastes.

(Ord. 2768, passed 2-4-03)

WASTEWATER DISCHARGE PERMIT APPLICATION

Sec. 171.15. Wastewater analysis required.

When requested by the DCO, a user must submit at the user's expense wastewater analysis information, or updates on information previously submitted, on the nature and characteristics of its wastewater within the deadline stipulated, and on forms or in a format specified by the DCO.

(Ord. 2768, passed 2-4-03)

Sec. 171.16. Requirement for and enforceability of wastewater discharge permit.

- (A) No significant industrial user shall discharge wastewater into the POTW without first submitting a permit application to the DCO, who may disallow any or all discharges until a wastewater discharge permit is issued, except that a significant industrial user that has filed a timely application pursuant to section 171.17 of this chapter may continue to discharge for the time period specified therein.
- (B) The DCO may require other users to submit a completed permit application or survey form, including monitoring data, and to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter. To determine the status of a user in relation to this chapter, users may be required to perform sampling as specified by the DCO.
- (C) 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 171.44 through 171.58 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 with any other federal, state and local law.

(Ord. 2768, passed 2-4-03)

Sec. 171.17. Wastewater discharge permitting: Existing connections.

- (A) Changes in the nature of pollutants from an existing user, such as new or increased contributions or pollutants to the POTW, must be reported to the city prior to discharge. A permitted user shall be required to submit an amendment to the discharge permit application. A user without a permit shall be required to submit a permit application. The requested changes may be denied or placed under special permit conditions by the DCO if they may be deemed to have an adverse affect upon the POTW, or do not meet applicable pretreatment standards or requirements.
- (B) Any user required by this chapter to obtain a wastewater discharge permit, who was discharging wastewater into the POTW prior to the effective date of this chapter, and who wishes to continue such discharges in the future, shall apply to the DCO for a wastewater discharge permit in accordance with section 171.19 of this chapter, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this chapter, except in accordance with a wastewater discharge permit issued by the DCO.
- (C) If, in the DCO's judgment, the passing of the chapter does not significantly affect a user's current permit, then the existing permit will continue through to the expiration or reissue date.

(Ord. 2768, passed 2-4-03)

Sec. 171.18. Wastewater discharge permitting: New connections.

- (A) Any user required by this chapter to obtain a wastewater discharge permit, who proposes to begin or recommence discharging into the POTW, must first submit a permit application to the DCO, who may disallow any or all discharges until a wastewater discharge permit is issued.
- (B) An application for this wastewater discharge permit, in accordance with section 171.19 of this chapter, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence, unless an alternate time period is specified by the DCO.

(Ord. 2768, passed 2-4-03)

Sec. 171.19. Wastewater discharge permit application contents.

- (A) Any user may be required to submit a permit application or a survey form in order to determine if a wastewater discharge permit will be required, on forms or in a format specified by the DCO.
- (B) All users required by this chapter to obtain a wastewater discharge permit must submit a permit application. The DCO may require all users to submit as part of an application, or a survey form, the following information:
 - (1) All information required by subsection 171.29(C) of this chapter;
 - (2) Description of activities, facilities, and plant processes on the premises, including all primary and secondary SIC codes, a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);
 - (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

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- (7) Time and duration of discharges;
 - (8) Information on ownership and authorized representatives of the user; and,
 - (9) Any other information as may be deemed necessary by the DCO to evaluate the wastewater discharge permit application.
- (C) Incomplete or inaccurate applications will not be processed and may be returned to the user for revision. It shall be a violation of this chapter to not resubmit the completed or corrected application when required.
- (Ord. 2768, passed 2-4-03)

Sec. 171.20. Application signatories and certification.

- (A) All wastewater discharge permit applications, survey forms and user reports, including BMR and DMR, must be signed by an authorized representative of the user and contain the following certification statement:
- "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- (B) It shall be a violation of this chapter to submit an application, survey or user report with false, misleading or fraudulent information.
- (Ord. 2768, passed 2-4-03)

Sec. 171.21. Wastewater discharge permit decisions.

The DCO will evaluate the data furnished by the user and may require additional information. The DCO may also require the installation of necessary devices to facilitate monitoring. Within a reasonable time from receipt of a complete wastewater discharge permit application the DCO will determine whether or not to issue a wastewater discharge permit. The DCO may deny any application for a wastewater discharge permit.

(Ord. 2768, passed 2-4-03)

WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

Sec. 171.22. Wastewater discharge permit duration and nontransferability.

- (A) A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the DCO. The permit shall be valid until revised and reissued, suspended, revoked or voided.
- (B) All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.
- (C) Wastewater discharge permits shall be voidable upon cessation of operations.

(D) Wastewater discharge permits shall not be transferred to a new owner or operator.

(Ord. 2768, passed 2-4-03)

Sec. 171.23. Wastewater discharge permit reissuance.

(A) A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 171.19 of this chapter, prior to the expiration of the user's existing wastewater discharge permit.

(B) The DCO may at any time require a user to submit a revised wastewater discharge permit application or survey form, or updated application or survey information.

(Ord. 2768, passed 2-4-03)

Sec. 171.24. Wastewater discharge permit contents.

(A) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the DCO to protect human health and the environment, 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 shall contain:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

(2) A statement that the wastewater discharge permit is nontransferable;

(3) Effluent limits based on applicable pretreatment standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include report due dates, the requirement that sampling is performed during the applicable reporting period, 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.

(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, operation and maintenance 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) Requirements for the development and implementation of spill control plans or other special criteria, e.g. hazard and risk analysis and contingency planning, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of plans for waste minimization, pollution prevention and/or recycling of industrial wastewater and sludge to reduce the amount of pollutants discharged to the POTW;

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- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (6) Requirements for location, installation, operation and maintenance of inspection and sampling facilities and equipment;
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and,
 - (8) Other conditions as deemed appropriate by the DCO to ensure compliance with this chapter, and state and federal laws, rules, and regulations.
- (D) All conditions in, or modifications to, a wastewater discharge permit are enforceable as part of this chapter.
(Ord. 2768, passed 2-4-03)

Sec. 171.25. Wastewater discharge permit modification.

- (A) The DCO may modify a wastewater discharge permit for cause, including, but not limited to, the following reasons:
- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of 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, POTW 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 categorical pretreatment standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the wastewater discharge permit; or,
 - (9) Other conditions as deemed appropriate by the DCO to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(Ord. 2768, passed 2-4-03)

Sec. 171.26. Wastewater discharge permit revocation.

- (A) The DCO may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons, each of which are a violation of this chapter:
- (1) Failure to notify the DCO of significant changes to the wastewater prior to the changed discharge;
 - (2) Failure to provide prior notification to the DCO of changed conditions pursuant to section 171.33 of this chapter;

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- (3) Falsification, misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or survey, self-monitoring reports (e.g. DMR) or any other requested documents;
 - (4) Tampering with monitoring equipment;
 - (5) Refusing to allow the DCO timely access to the facility premises and records;
 - (6) Failure to meet effluent limitations;
 - (7) Failure to pay fines;
 - (8) Failure to pay monitoring, water and/or sanitary sewer charges;
 - (9) Failure to pay for all costs incurred by the city in the abatement, cleanup and/or remediation of pretreatment violations and/or any other prohibited discharge;
 - (10) Failure to meet compliance schedules;
 - (11) Failure to complete or update a wastewater survey or the wastewater discharge permit application;
 - (12) Failure to provide advance notice of the cessation of business, lease, sale or transfer of business ownership of a permitted facility; or,
 - (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

(Ord. 2768, passed 2-4-03)

INFORMATION DISCLOSURE

Sec. 171.27. Confidential information.

- (A) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from inspection and sampling activities, shall be available to the public without restriction, unless
 - (1) The user specifically requests, and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable federal and state law; and,
 - (2) Any such request of confidentiality of information must be asserted at the time of submission of the information or data.
- (B) When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report.
- (C) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 2768, passed 2-4-03)

Sec. 171.28. Publication of users in significant noncompliance.

- (A) The DCO shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards and requirements. The term SNC shall mean:
- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
 - (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, oils and grease, and 1.2 for all other pollutants except pH);
 - (3) Any other discharge violation that the DCO believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
 - (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
 - (5) Failure to meet, within 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 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 DCO determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. 2768, passed 2-4-03)

REPORTING REQUIREMENTS

Sec. 171.29. Baseline monitoring reports.

- (A) Existing categorical users currently discharging to, or scheduled to discharge to the POTW, shall submit a BMR to the DCO within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later.
- (B) New sources, and sources that will become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit a BMR to the DCO at least 90 days prior to commencement of their discharge. A new source shall also:
- (1) Report the method of pretreatment it intends to use to meet applicable categorical standards, and
 - (2) Give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (C) Baseline monitoring reports (BMR) shall include the following information in an approved format:

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- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - (2) *Environmental permits.* A list of all 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 (SIC codes) of the operation(s). 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 or estimated 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 DCO, 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 171.38 of this chapter.
 - (c) Sampling must be performed in accordance with procedures set out in section 171.39 of this chapter.
 - (6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (7) *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 submitted for approval. 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 171.30 of this chapter.
 - (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 171.20 of this chapter.

(Ord. 2768, passed 2-4-03)

Sec. 171.30. Compliance schedule progress reports.

- (A) The following conditions shall apply to the BMR compliance schedule required by subsection 171.29(A)(7) 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 months.

(3) The user shall submit a progress report to the DCO not later than 14 days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(4) In no event shall more than nine months elapse between such progress reports to the DCO.

(Ord. 2768, passed 2-4-03)

Sec. 171.31. Reports on compliance with categorical pretreatment standard deadline.

(A) Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the DCO a report containing the information described in subsections 171.29(C)(4) to (6) of this chapter.

(B) For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate.

(C) For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other approved measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(D) All compliance reports must be signed and certified in accordance with section 171.20 of this chapter.

(Ord. 2768, passed 2-4-03)

Sec. 171.32. Periodic compliance reports.

(A) All significant industrial users shall, at a frequency determined by the DCO, but in no case less than semi-annually, submit a report on a form (e.g. DMR) or in a format specified by the DCO:

(1) Indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards, and

(2) The measured or estimated average and maximum daily flows for the reporting period.

(3) At the DCO's discretion, sampling and analysis may be performed by the city in lieu of industrial monitoring.

(4) All periodic compliance reports must be signed and certified in accordance with section 171.20 of this chapter.

(B) All wastewater samples must be representative of the user's discharge.

(1) Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times.

(2) 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.

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the DCO, using the procedures prescribed in section 171.38 and section 171.39 of this chapter, the results of this monitoring shall be included in the report.

(Ord. 2768, passed 2-4-03)

Sec. 171.33. Reports of changed conditions.

- (A) Each user must notify the DCO of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater before the change is made.
- (B) The DCO 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 or survey under section 171.24 of this chapter.
- (C) The DCO may issue a wastewater discharge permit under section 171.21 of this chapter, or modify an existing wastewater discharge permit under section 171.25 of this chapter, in response to changed conditions or anticipated changed conditions.
- (D) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants that are determined to be of concern.

(Ord. 2768, passed 2-4-03)

Sec. 171.34. 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, or a slug load, that may cause potential problems for the POTW, the user shall:
 - (1) Immediately telephone and notify the city and TRA of the incident.
 - (2) This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
 - (3) The emergency notification procedure shall be permanently posted on the user's bulletin board, or other prominent place, advising employees whom to call in the event of such a discharge.
 - (4) Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (B) Within five days following such discharge, the user shall, unless waived by the DCO, 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.
 - (1) 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;
 - (2) Nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(Ord. 2768, passed 2-4-03)

Sec. 171.35. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports and sampling data to the DCO, as the DCO may require.

(Ord. 2768, passed 2-4-03)

Sec. 171.36. Repeat sampling and reporting for violations.

- (A) If sampling performed by a user indicates a violation of a pretreatment standard or requirement, the user must notify the DCO within 24 hours of becoming aware of the violation.
- (B) The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the DCO within 30 days after becoming aware of the violation.
- (C) The user is not required to resample if:
 - (1) The city monitors at the user's facility at least once a month, or
 - (2) If the city samples between the user's initial sampling and when the user receives the results of this sampling.
- (D) The DCO may require a user to perform additional sampling and/or reporting by giving written notice to the user or modifying a user's permit.

(Ord. 2768, passed 2-4-03)

Sec. 171.37. Notification of the discharge of hazardous waste.

- (A) Any user who desires to discharge, or has discharged, into the POTW any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, shall notify in writing, the DCO, TRA, the EPA Regional Waste Management Division Director, and state hazardous waste authorities.
 - (1) Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).
 - (2) Such notification must demonstrate how the user will ensure that hazardous wastes discharged to the POTW are adequately controlled to protect human health and the environment.
 - (3) If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user:
 - (a) An identification of the hazardous constituents contained in the wastes,
 - (b) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and,
 - (c) An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.
 - (4) All notifications must take place not later than 30 days after the discharge commences.
 - (a) Any notification under this paragraph need be submitted only once for each hazardous waste discharged.
 - (b) However, notifications of changed conditions must be submitted under section 171.33 of this chapter.
 - (5) The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 171.29, 171.31, and 171.32 of this chapter.
- (B) Dischargers are exempt from the requirements of division (A), above, during a calendar month in which they discharge not more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as

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specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

- (C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the DCO, TRA, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(Ord. 2768, passed 2-4-03)

Sec. 171.38. Analytical requirements.

- (A) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. A written chain-of-custody record of sample possession and quality assurance/quality control shall be maintained.
- (B) If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- (C) The DCO may require that approved laboratories be used for analysis.

(Ord. 2768, passed 2-4-03)

Sec. 171.39. Sample collection.

- (A) The DCO may require that approved persons be used for sample collection.
- (B) The DCO may select the frequency, times and locations of sampling. All sample collection will follow approved procedures, e.g. providing chain-of-custody records and using standard preservation and holding times.
- (C) The user must collect wastewater samples using flow proportional composite sample techniques, except:
 - (1) In the event flow proportional sampling is unfeasible, the DCO may authorize the use of time proportional composite sampling, or a minimum of four grab samples, where the user demonstrates that this will provide a representative sample of the effluent being discharged; and
 - (2) In addition, grab samples may be required to show compliance with instantaneous discharge limits; and,
 - (3) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab sample techniques.

(Ord. 2768, passed 2-4-03)

Sec. 171.40. Timing.

- (A) Written reports will be deemed to have been submitted on the date postmarked.
- (B) For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, or submitted by another method approved by the DCO, the date of receipt of the report shall govern.

(Ord. 2768, passed 2-4-03)

Sec. 171.41. Recordkeeping.

- (A) 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 pretreatment activity, including sample collection and analysis, required by this chapter, and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements.
- (B) Sampling records shall include:
 - (1) The date, exact place, method, and time of sampling, and the name of the person(s) taking the samples;
 - (2) The dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and, the results of such analyses.
- (C) 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 DCO.

(Ord. 2768, passed 2-4-03)

COMPLIANCE MONITORING

Sec. 171.42. Compliance inspection and sampling; right of entry.

- (A) The DCO, and TRA, TCEQ, or EPA, or their designated representative with the DCO, shall have the right to enter the premises of any user, or future user during construction, at any time and without delay, to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder, and for inspecting and sampling.
- (B) Users shall allow persons authorized to perform inspecting or monitoring ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, photographic or video documentation, maintenance of any portion of the water or sewage system lying within easements, and the performance of any additional duties under this chapter.
- (C) Where a user has security measures in force which require proper identification and clearance before entry into its premises, or any part of its premises, the user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the city, and when authorized by the DCO, TRA, TCEQ or EPA, will be permitted to enter at any time and without delay for the purposes of performing specific responsibilities.

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- (D) The DCO shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling, metering and/or documentation of the user's operations. All sampling and analysis performed by the DCO to monitor compliance shall be at the expense of the user.
 - (E) The DCO may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment, including a sampling manhole or port, shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, at a minimum, annually to ensure their accuracy.
 - (F) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the DCO, and shall not be replaced.
 - (G) Unreasonable delays in allowing the inspecting or sampling person access to the user's premises shall be a violation of this chapter.
 - (H) In accordance with 40 CFR 403, the city shall inspect and monitor each permitted user a minimum of once per year. If the city elects to perform compliance monitoring for the user, then the city will monitor the user a minimum of semi-annually.

(Ord. 2768, passed 2-4-03)

Sec. 171.43. Search warrants.

If the DCO has been refused access to a building, structure, or property, or any part thereof, and 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; or, is able to demonstrate that there is a probable cause to believe that there may be a violation of this chapter, then the DCO may seek issuance of a search warrant from an appropriate court.

(Ord. 2768, passed 2-4-03)

ADMINISTRATIVE ENFORCEMENT REMEDIES

Sec. 171.44. Enforcement remedies generally.

- (A) The enforcement response plan is a procedural guide for how the city conducts its pretreatment program and determines its enforcement actions. Administrative enforcement responses range from informal (e.g. oral or written reminders, review meetings) to formal administrative orders (which direct users to undertake and/or cease specified activities, usually within a specified time frame). The terms of administrative orders are pretreatment requirements.
- (B) Users determined by the DCO to have committed significant violations may be assessed penalties based upon the economic benefit received. The procedures for calculating economic benefit are in the enforcement response plan. Penalties are to recover, at a minimum, any economic benefit the user may have realized from noncompliant activities.

(Ord. 2768, passed 2-4-03)

Sec. 171.45. Special enforcement responses.

- (A) The city may require a user to financially support or to perform additional environmental improvement projects in the community to partially or completely offset damages resulting from noncompliance.
- (B) The city may require a user to hire consultants or staff capable to maintain consistent compliance with the pretreatment program.
- (C) The city may require a user to provide on-going training for its employees that enable them to maintain consistent compliance with the pretreatment program.
- (D) The city may require a user to provide:
 - (1) Increased monitoring and/or reporting,
 - (2) Additional or upgraded approved control and/or monitoring equipment, or
 - (3) Implement additional or improved operational procedures.

(Ord. 2768, passed 2-4-03)

Sec. 171.46. Notification of violation.

- (A) When the DCO finds that 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, the DCO may serve upon that user a written notice of violation.
- (B) When required by the DCO, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the DCO. This response may be verbal, or if required, shall be in writing, but the response shall be within the time specified by the DCO.
- (C) Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall imply that a notice of violation must be issued prior to any other enforcement action, nor shall it limit the authority of the DCO to take any action, including emergency actions or any other enforcement response.

(Ord. 2768, passed 2-4-03)

Sec. 171.47. Consent orders.

- (A) When the DCO finds that 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, the DCO may enter into an agreement with the user responsible for the discharge, specifying how the user will come into compliance within a specified time. The consent order may also stipulate fines, remedial actions or other terms that both parties consent to, and shall be signed by authorized representatives for the city and the user.
- (B) If the user does not come into compliance within the time provided, sewer and/or water service may be discontinued unless adequate approved treatment facilities, devices, or other related apparatus are installed and properly operated.
- (C) Consent orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer.

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- (D) A consent order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a consent order relieve the user of liability for any violation, including any continuing violation. Issuance of a consent order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2768, passed 2-4-03)

Sec. 171.48. Show cause hearings.

- (A) The DCO may order a user that 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, to appear before the DCO and show cause why the proposed enforcement action should not be taken.
- (B) Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken.
 - (1) The notice of the meeting shall be served personally or by certified mail (return receipt requested) at least ten days prior to the hearing, or conspicuously posted on the premises.
 - (2) Such notice may be served on any authorized representative of the user.
- (C) A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(Ord. 2768, passed 2-4-03)

Sec. 171.49. Compliance orders.

- (A) When the DCO finds that 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, the DCO may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time.
- (B) If the user does not come into compliance within the time provided, sewer and/or water service may be discontinued unless adequate approved treatment facilities, devices, or other related apparatus are installed and properly operated.
- (C) Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer.
- (D) A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2768, passed 2-4-03)

Sec. 171.50. Cease and desist orders.

- (A) When the DCO finds that 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, or that the user's past violations are likely to recur, the DCO may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2768, passed 2-4-03)

Sec. 171.51. Emergency suspensions.

- (A) The DCO may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.
- (B) The DCO may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of other users or of the POTW, or which presents, or may present, an endangerment to the environment.
- (C) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge.
- (1) In the event of a user's inability or refusal to receive notice, or a user's failure to immediately comply voluntarily with the suspension order, the DCO may take such steps as deemed necessary, including immediate severance of water and sewer connections, to prevent or minimize damage to the POTW, its receiving stream or the environment, or endangerment to any individual.
 - (2) The DCO may allow the user to recommence its discharge, when the user has demonstrated to the satisfaction of the DCO, that the period of endangerment has passed, unless the termination proceedings in section 171.52 of this chapter are initiated against the user.
- (D) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the DCO prior to the date of any show cause or termination hearing under section 171.48 or section 171.52 of this chapter.
- (E) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. 2768, passed 2-4-03)

Sec. 171.52. Termination of discharge.

- (A) In addition to the provisions in section 171.26 of this chapter, any user who violates any of the following conditions is subject to termination of services for water and/or discharge to the POTW:
- (1) Violation of wastewater discharge permit conditions, including discharge of wastewater that should be, but is not, under permit;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

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- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
 - (5) Violation of the pretreatment standards in sections 171.04 to 171.10 of this chapter.
- (B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 171.48 of this chapter why the proposed action should not be taken.
- (C) Exercise of this option by the DCO shall not be a bar to, or a prerequisite for, taking any other action against the user.
- (Ord. 2768, passed 2-4-03)

Sec. 171.53. Cost recovery for damages, abatement and remediation.

- (A) In the event of a discharge prohibited by this chapter into a sewer, or any area that drains to a storm or sanitary sewer, the DCO shall have the authority to require the immediate abatement, cleanup and/or remediation of such discharge and consequent contamination at the expense of the person responsible for the discharge. Requirements for corrective or remedial actions shall apply to any damages caused to the POTW and other private or public property.
- (B) In addition to abatement and remediation costs, users or responsible persons may be required to make reimbursement to the city and/or control authority to pay for all expenses incurred in responding to pretreatment violations.
- (C) If no person is found to have caused the discharge, the owner of any property with the discharge and consequent contamination, or from which the discharge originated, shall be the responsible person for the required abatement, cleanup and/or remediation.
- (D) The city may, at its discretion, perform such abatement, cleanup and/or remediation, and collect from the responsible person, all expenses incurred in accordance to subsection 31.01(D).
- (E) The city shall assess the expenses incurred pursuant to section 171.53 against the real estate on which the work was done and charge the owner of the property for the same. In the event the owner fails to or refuses to pay the expense within 30 days after the first of the month following the one in which the work was done, the DCO shall obtain a lien against the property by filing with the County Clerk of the appropriate county a statement of the expenses so incurred. The lien is security for the expenditures made and interest accruing at the rate of ten percent per annum from the date of payment by the city. When the statement is filed, the city shall have a privileged lien on that property, second only to tax liens and liens for street improvement. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the city. The statement of expenses or a certified copy thereof, is prima facie proof of the expenses incurred by the city, in the abatement, cleanup and remediation of any discharge and consequent contamination.
- (F) Exercise of this section by the DCO shall not be a bar to, or a prerequisite for, taking any other action against the responsible person.

(Ord. 2768, passed 2-4-03)

JUDICIAL ENFORCEMENT REMEDIES

Sec. 171.54. Injunctive relief.

- (A) When the DCO finds that 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, the DCO may petition a court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user.
- (B) The DCO may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation.
- (C) A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. 2768, passed 2-4-03)

Sec. 171.55. Civil penalties.

- (A) A user who 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, may be liable to the city for the maximum civil penalty allowed by law, per violation, per day. Penalties may accrue for each day during the period of the violation.
- (B) The city may enter into a consent decree agreement with a user, when a user is willing to correct noncompliance while agreeing with the city on the penalty (which may be for previous and future violations). The agreement is a court-supervised settlement.
- (C) The city may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, environmental remediation, and the cost of any actual damages incurred by the city.
- (D) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (E) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. 2768, passed 2-4-03)

Sec. 171.56. Criminal prosecution.

- (A) A user who violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is guilty of a misdemeanor, and upon conviction is punishable as set forth in section 10.99, for each day or part of a day during which the violation is committed, continued, or permitted.
- (B) A user who introduces any substance into the POTW which causes personal injury or property damage is guilty of a misdemeanor, and upon conviction is punishable as set forth in section 10.99. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- (C) A user who makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater

discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter is guilty of a misdemeanor, and upon conviction is punishable as set forth in section 10.99.

- (D) Any person who negligently, willfully or maliciously causes loss by tampering with or destroying the POTW, a user's treatment facilities, or any sampling and inspection equipment is guilty of a misdemeanor, and upon conviction is punishable as set forth in section 10.99.
- (E) In addition to sanctions provided in this chapter, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the charges for water and sanitary sewer service when due.
- (F) Criminal responsibility. A culpable mental state is not required to prove an offense under this chapter. A person is criminally responsible for a violation of this chapter if:
 - (1) The person commits or assists in the commission of a violation, or causes or permits another person to commit a violation; or
 - (2) The person owns or manages the property or facilities determined to be the cause of the illegal discharge.

(Ord. 2768, passed 2-4-03)

Sec. 171.57. Remedies nonexclusive.

- (A) The remedies provided for in this chapter are not exclusive. The DCO may take any, all, or any combination of these actions against a noncompliant user.
- (B) Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the DCO may take other action against any user when the circumstances warrant.
- (C) Further, the DCO is empowered to take more than one enforcement action against any noncompliant user.

(Ord. 2768, passed 2-4-03)

Sec. 171.58. Applicability of more stringent regulations.

- (A) If national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed under this chapter are promulgated by the EPA for certain industries, the more stringent national pretreatment standards will apply to the affected user. A violation of the more stringent national pretreatment standards will also be considered a violation of this chapter.
- (B) A user within the city who discharges industrial waste ultimately received and treated by another governmental entity pursuant to a wholesale wastewater contract, or a reciprocal agreement with the city, is subject to the following additional rules:
 - (1) If the governmental entity has more stringent discharge limits than those prescribed by this chapter, or by a discharge permit issued hereunder, because the EPA or TCEQ requires the more stringent discharge limits as part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits shall prevail.
 - (2) The DCO is authorized to issue a discharge permit to a user affected by division (1), to insure notice of and compliance with the more stringent discharge limits. If the user already has a discharge permit, the DCO may amend the permit to apply and enforce the more stringent discharge limits. A user shall submit to the DCO an expected compliance date and an installation schedule, if the more stringent

discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.

- (3) If the DCO chooses not to issue or amend a permit under division (2), the DCO shall notify the affected user in writing of the more stringent discharge limits and their effective date. Regardless of whether or not a permit is issued or amended, a user shall be given a reasonable opportunity to comply with the more stringent discharge limits.
 - (4) The more stringent discharge limits cease to apply upon termination of the city's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the government entity or the EPA. The DCO shall take the appropriate action to notify the affected user of an occurrence under this division (4).
- (C) *Variations in compliance dates.* The DCO may grant a variance in compliance dates to a user when, in the DCO's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the DCO grant a variance in compliance dates to a user affected by national categorical pretreatment standards beyond the compliance dates established by the EPA.
- (D) *Authority to regulate.* The DCO may establish policies and regulations, not in conflict with this chapter or other laws, to control the disposal and discharge of waste into the wastewater system, and to insure compliance with the city's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the EPA. The policies and regulations established shall, where applicable, be made part of any discharge permit issued to a user by the DCO.
- (Ord. 2768, passed 2-4-03)

PRETREATMENT CHARGES AND FEES

Sec. 171.59. Pretreatment charges and fees.

- (A) Users are required to pay applicable pretreatment charges and costs for:
- (1) Preparing and submitting baseline monitoring reports and construction plans, revising permit applications, required self-monitoring and reporting, and other reports or information required by the DCO;
 - (2) Installation and operation of pretreatment facilities and other requirements pursuant to this chapter, that are the responsibility of the user;
 - (3) Treating abnormal strength wastes (surcharges);
 - (4) Disconnection and/or reconnection of service resulting from noncompliance;
 - (5) Costs to the city or TRA incurred from an upset, bypass or unauthorized discharge;
 - (6) Recovery of the costs to the city or TRA for filing appeals; and,
 - (7) Costs incurred by the city under administrative enforcement remedies in this chapter, including abatement and remediation expenses.
- (B) The city may require reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program, which are found in this section, and in section 171.53 and subsection 31.01(D), which may include, but are not limited to fees for:
- (1) Wastewater discharge permits and cost of processing applications for permits;

- (2) Monitoring, including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (3) Inspections and surveillance procedures;
- (4) Reviewing construction plans, spill control plans and other special criteria;
- (5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(C) *Surcharge.*

- (1) The city may surcharge users for the treating of abnormal strength wastes, either as a single user surcharge or as a class surcharge.
- (2) The DCO shall have the authority to review and approve the discharge of all water or wastes having high strength concentrations of:
 - (a) A five-day biochemical oxygen demand (BOD) greater than 250 mg/l; or
 - (b) Containing more than 250 mg/l of total suspended solids (TSS); or
 - (c) A chemical oxygen demand (COD) greater than 625 mg/l.
- (3) Where the DCO has approved the admission of high strength BOD, TSS or COD into the POTW that discharge may be subject to a surcharge as determined by the DCO. The surcharge may be calculated on BOD and TSS values different from the normal concentrations of 250 mg/l, or a COD concentration of 2.5 times that of the BOD concentration.
- (4) At the discretion of the DCO, users may be surcharged either as:
 - (a) Individual facilities (with flow and concentration data from the single user), or
 - (b) Groups of similar facilities or a class of comparable uses with analogous wastewater characteristics (with flow and concentration data averaged from typical users selected by the DCO).
- (5) In no case shall a discharge of abnormally elevated conventional pollutants (BOD, TSS or COD) be accepted that will prevent the POTW from meeting its limits, or damage the POTW, or endanger or harm any person.
- (6) The surcharge will be billed monthly, in addition to the usual monthly sewer service user fees.
- (7) The surcharge shall be calculated according to the following formula:

$$\text{Surcharge} = [Q] [a (\text{BOD} - x) + b (\text{TSS} - y)] [8.34] [c]$$

Or, for those abnormal wastes having a COD concentration 2.5 or more times that of the BOD concentration, the surcharge may, at the discretion of the DCO, be based on the COD category in lieu of the BOD category. Thus the surcharge shall be calculated according to the following formula:

$$\text{Surcharge} = [Q] [a (\text{COD} - z) + b (\text{TSS} - y)] [8.34] [c]$$

Where:

Q =	wastewater flow in million gallons per month
8.34 =	weight in pounds of one gallon of water (factor for converting mg/l to pounds per million gallons of water)
x =	level of BOD in milligrams per liter (mg/l), above which a surcharge is assessed
y =	level of TSS in mg/l, above which a surcharge is assessed

z =	level of COD in mg/l, above which a surcharge is assessed
a =	unit cost in dollars, of treatment per pound of BOD or COD
b =	unit cost in dollars, of treatment per pound of TSS
c =	administrative overhead recovery factor in dollars
BOD =	measured amount of BOD, in mg/l
COD =	measured amount of COD, in mg/l
TSS =	measured amount of TSS, in mg/l

and, where the value of BOD, COD and/or TSS concentrations in this calculation will be an average of values determined by testing procedures, as defined in this chapter, on samples collected and/or accepted by the DCO. If the average of these concentrations is less than the value for the respective x, y or z, that term of the equation shall be dropped from the surcharge calculation.

- (8) The DCO may adjust the administrative recovery factor and the unit treatment costs in the formula to reflect increases or decreases in overhead and wastewater treatment costs.
- (9) Based on sampling analysis, adjustment in surcharges shall be made to reflect changes in the characteristics of the abnormal strength wastewater. Changes in charges shall continue for at least six billing periods, unless subsequent tests determine that the charge should be further increased.
- (10) A surcharge is an additional charge by the city for the increased cost of handling discharge of unusual strength and character, and shall not serve as a variance to the requirements of this chapter. Exercise of this provision shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. 2768, passed 2-4-03)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Sec. 171.60. In an action brought in federal court only: Upset provision.

- (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), below, are met.
- (C) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the DCO within 24 hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five days:
 - (a) A description of the discharge and cause of noncompliance;

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- (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (D) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (E) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - (F) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- (Ord. 3281, passed 2-3-09)

Sec. 171.61. In an action brought in municipal court or state court only: Act of God provision.

- (A) An event that would otherwise be a violation that is caused solely by an act of God, war, strike, riot or other catastrophe is not a violation.
 - (B) In an enforcement proceeding, the user seeking to establish the occurrence of an act of God, war, strike, riot or other catastrophe shall have the burden of proof.
 - (C) In the event that subsections (A) and (B) above have been demonstrated the user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.
- (Ord. 3281, passed 2-3-09)

Sec. 171.62. Bypass.

- (A) For the purposes of this section:
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means damage which can reasonably be expected to occur if the user did not elect to perform the bypass. Such impairment would be:
 - (a) Substantial physical damage to property;
 - (b) Damage to the user's treatment facilities which causes them to become inoperable; or
 - (c) Substantial and permanent loss of natural resources."Severe property damage" does not mean economic loss caused by delays in production.
- (B) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (C) and (D) of this section.

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- (C) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the DCO, at least ten days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the DCO of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The DCO may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (D) (1) Bypass is prohibited, and the DCO may take an enforcement action against a user for a bypass, unless:
- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under subsection (C) of this section.
- (2) The DCO may approve an anticipated bypass, after considering its adverse effects, if the DCO determines that it will meet the three conditions listed in subsection (D)(1) of this section.

(Ord. 3281, passed 2-3-09)

Secs. 171.63—171.98. Reserved.

Sec. 171.99. Penalty.

- (A) A person who violates any provisions of this chapter, a wastewater discharge permit or any order issued hereunder, or any other pretreatment standard or requirement, is guilty of a misdemeanor, and upon conviction is punishable as set forth in section 10.99, for each act of violation and for each day or part of a day during which the violation is committed, continued or permitted.
- (B) In addition to sanctions provided above, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of this chapter, other ordinances or statutes, against a person continuing prohibited discharges or violating any provision of this chapter.
- (C) In addition to sanctions provided above, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due.
- (D) The city may pursue all criminal and civil remedies to which it is entitled under authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers, treatment facilities, or sampling and inspection equipment.

(Ord. 2768, passed 2-4-03)