EPA MODEL PRETREATMENT ORDINANCE

Office of Wastewater Management/
Permits Division

January 2007

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

EPA 833-B-06-002

Ordinance Key

Required Pretreatment Streamlining Rule changes are designated as a ***Required Streamlining Rule Change*** in 10 point font bold italics.

[Informational notes are in brackets in bold font]

Optional requirements (not-required by 40 CFR Part 403) are labeled: "**{optional}**" in bold font.

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INTRODUCTION

The United States Environmental Protection Agency (EPA), Office of Wastewater Management, Water Permits Division has prepared this Model Pretreatment Ordinance. It is for use by municipalities operating Publicly Owned Treatment Works (POTWs) that are required to develop pretreatment programs to regulate industrial discharges to their systems. The model ordinance should also be useful for communities with POTWs that are not *required* to implement a pretreatment program in drafting local ordinances to control nondomestic dischargers within their jurisdictions.

A municipality should not adopt the model ordinance verbatim. Instead, the model ordinance should be used as a guide for adopting new or revised provisions of local law to implement and enforce a pretreatment program that fulfills requirements set out in the *Code of Federal Regulations* (CFR). The municipality must consider conditions at its POTW and consult State law to determine what adjustments might need to be made to the model ordinance and what provisions are authorized under State law. Many provisions in the model ordinance contain blanks or brackets; these indicate that the provision must be adapted to the POTW's circumstances. Also, bracketed notes in bold, 10 point print are provided for certain provisions, explaining issues the municipality must consider when crafting local provisions. To remove the line numbering go to *File > Page Setup > Layout*. Under *Preview* and *Apply to:* select *Whole document order*. Then click on *Line Numbers* and deselect *Add line numbering*.

Some provisions in the model ordinance are not strictly required by the General Pretreatment Regulations (40 CFR Part 403); however, they have been included because they may be useful in ensuring that the municipality has adequate legal authority to effectively implement its local pretreatment program. In addition, the model ordinance includes additional, other provisions that, while included in the "Pretreatment Streamlining Rule (October 14, 2005, 70 FR 60134) are not required elements of a local pretreatment program. These provisions are designated as optional, and are indicated as such in the ordinance by "**{optional}**". Furthermore, POTWs considering adopting the non-required provisions of the *Pretreatment Streamlining Rule* should verify with their Approval Authority to determine whether these optional items are available for implementation. Where a municipality either must adopt a provision similar to the one in the model ordinance or develop its own means of accomplishing that section's objective, the section is preceded by a bracketed note explaining the municipality's options. Other provisions, such as the model ordinance's statement of purpose and effective date, are necessary only to the extent that they are typical of any local ordinance.

POTWs should be aware that any change to their pretreatment ordinance is considered a modification to their approved pretreatment program. All modifications to a POTW's approved pretreatment program must be submitted to the Approval Authority in accordance with 40 CFR 403.18. It is EPA's expectation that States will review POTW ordinances to ensure that the ordinances are consistent with State law. POTWs should request this review from their States.

EPA Regions and representatives of various States and municipalities provided valuable comments in helping to prepare this document.

This EPA Model Pretreatment Ordinance also is available on EPA's Web site at http://www.epa.gov/npdes/pretreatment in Adobe 7 PDF format.

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EPA MODEL PRETREATMENT ORDINANCE

ORDINANCE NO. [ ]

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the [City of] and enables [the City] to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

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 protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;

E. **{Optional}** To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

F. To enable [the City] 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 ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits [or general permit **{optional}**]; 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. **{Optional} [Note: Not all programs distribute the cost of the program through fees (some come out of the general budget) so Section 15 may not be applicable to your municipality and indicates that it is optional to have pretreatment charges and fees.]**

1.2 Administration

Except as otherwise provided herein, [the Superintendent] shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon [the Superintendent] may be delegated by [the Superintendent] to a duly authorized [City] employee.

1.3 Abbreviations

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

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – *Code of Federal Regulations*
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
IU – Industrial User
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

1.4 Definitions

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

[Note: Each of the terms and phrases defined below are used at least once in the ordinance. When the municipality adopts its final version of the ordinance, it should delete from this Section all terms not used.]

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

B. Approval Authority**. [Note: Designate the State as the Approval Authority if the State has an EPA-approved pretreatment program. Alternatively, designate the appropriate Regional Administrator of EPA as the Approval Authority in a nonapproved State.]**

C. Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation:

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

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

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to [the City].

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

E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste

disposal, or drainage from raw materials storage. **[Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.]**

F. 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. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

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

H. [City]. [The City of] or [the City Council of].

I. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

J. Control Authority. The [City]

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

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

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

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

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

M. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.

N. Instantaneous 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. **[Note: If the**

POTW would like the flexibility to measure compliance with either a single grab sample or sample representative of the discharge day, the POTW should establish both Daily Maximum and Instantaneous Limits.]

O. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of [the City's] NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

P. Local Limit. Specific discharge limits developed and enforced by [the City] upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

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

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

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

T. New Source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

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

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

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

(i) any placement, assembly, or installation of facilities or equipment; or
(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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

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

V. 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 City's] NPDES permit, including an increase in the magnitude or duration of a violation.

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

X. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

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

Z. 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 allowed by an applicable Pretreatment Standard.

AA. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

BB. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

CC. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.

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

EE. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

FF. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

GG. Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

(1) An Industrial User subject to categorical Pretreatment Standards; or

(2) An Industrial User that:

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

{Optional} [Note: The following provision may be included in the local ordinances only if authorized under State law. Criteria for reduced reporting must also include any criteria defined in applicable State requirements.]

(3) The [City] may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to [City's] finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
(b) The Industrial User annually submits the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
(c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part 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 an Industrial 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.

HH. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

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

JJ. [Superintendent]. The person designated by [the City] to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance**.** The term also means a Duly Authorized Representative of the [Superintendent].

KK. Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

LL. User or Industrial User. A source of indirect discharge.

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

NN. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

SECTION 2—GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 [or more than ____], or otherwise causing corrosive structural damage to the POTW or equipment;

[Note: The municipality should be aware that the General Pretreatment Regulations at 40 CFR 403.5(b) do not set an upper pH limit, although many municipalities find such a limit necessary or useful. If the municipality wishes to set an upper pH limit, it should insert one in this Section. 40 CFR 261.22 established that wastes discharged with a pH over 12.5 are considered corrosive hazardous wastes and therefore, the POTW would need to comply with applicable requirements under the Resource Conservation and Recovery Act and implementing regulations for Treatment,

Storage, and Disposal facilities if such wastes are delivered to the POTW by truck, rail, or dedicated pipe. Accordingly, if the POTW chooses to prohibit discharge of characteristic hazardous wastes, the upper pH limit must be no greater than 12.5.]

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference [but in no case solids greater than_____ inch(es) (____") or _____ centimeter(s) (____ cm) in any dimension];

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

(5) Wastewater having a temperature greater than [____degrees F (____degrees C)], 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 F (40 degrees C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

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

(8) Trucked or hauled pollutants, except at discharge points designated by [the Superintendent] in accordance with Section 3.4 of this ordinance;

{Note: Discharge prohibitions B.(1) through B.(8) are mandatory National Pretreatment Standards and must be included in the ordinance; discharge prohibitions B.(9) through B.(18) below are optional.}

(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; **{optional}**

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating [the City's] NPDES permit; **{optional}**

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations; **{optional}**

(12) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by [the Superintendent]; **{optional}**

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes; **{optional}**

(14) Medical Wastes, except as specifically authorized by [the Superintendent] in an individual wastewater discharge permit [or a general permit **{optional}**]; **{optional}**

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test; **{optional}**

(16) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW; **{optional}**

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than [( ) mg/l]; **[Note: Numeric limits for these pollutants may be placed in Section 2.4] {optional}**

(18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than [_____ percent (____%)] or any single reading over [_____ percent (____%)] of the Lower Explosive Limit of the meter. **{optional}**

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.

2.2 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

[Note: State procedures for incorporation by reference must be followed. EPA regulations at 40 CFR 403.13 authorize a CIU to obtain a variance from a categorical Pretreatment Standard if the CIU 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. The POTW might need to include a provision authorizing it to incorporate or recognize revised Standards if the User has obtained an FDF variance from EPA on the basis of 40 CFR 403.13. That CIU's Standards would be replaced by the revised FDF variance Standard.]

A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, [the Superintendent] may impose equivalent concentration or mass limits in accordance with Section 2.2E and 2.2F. **{Optional} [Note: See 40 CFR 403.6(c)]**

B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the [Superintendent] may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users. **{Optional} [Note: See 40 CFR 403.6(c)(2)]**

C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, [the Superintendent] shall impose an alternate limit in accordance with 40 CFR 403.6(e).

{Optional}[Note: The following provision may be included in the local ordinance at the municipality's discretion.]

D. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section. **[Note: See 40 CFR 403.15]**

(1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the [City]. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

(2) Criteria.

a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The [City] may waive this requirement if it finds that no environmental degradation will result.

{Optional} [Note: The following optional provision may be included in the local ordinances only if authorized under State law.]

E. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that [the City] convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the [Superintendent]. [The City] may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 2.2E(1)(a) through 2.2E(1)(e) below.

(1) To be eligible for equivalent mass limits, the Industrial User must:

a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(2) An Industrial User subject to equivalent mass limits must:

a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
c. Continue to record the facility's production rates and notify the [Superintendent] whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 2.2F(1)(c) of this Section. Upon notification of a revised production rate, the [Superintendent] will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs 2.2E(1)(a) of this Section so long as it discharges under an equivalent mass limit.

(3) When developing equivalent mass limits, the [Superintendent]:

a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 2.6. The Industrial User must also be in compliance with Section 13.3 regarding the prohibition of bypass.]

{Optional} [Note: The following optional provisions (F–I) may be included in the local ordinances only if authorized under State law.]

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

[Note: When converting such limits to concentration limits, the [Superintendent] will use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Section 2.6 of this ordinance (see 40 CFR 403.6(d)). In addition, the [Superintendent] will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see 40 CFR 403.6(c)(7)).]

G. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (2.2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived. **[Note: See 40 CFR 403.6(c)(7)]**

H. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation. **[Note: See 40 CFR 403.6(c)(8)]**

I. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the [Superintendent] within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the [Superintendent] of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate. **[Note: See 40 CFR 403.6(c)(9)]**

2.3 State Pretreatment Standards

Users must comply with [State Pretreatment Standards] codified at [insert appropriate cite to State statute or law].

2.4 Local Limits

[Note: Municipalities need to establish limits for some or all of the pollutants listed below, and might need to set limits for pollutants not listed below. The municipality may also establish Best Management Practices (BMPs) to control certain pollutants. The municipality will provide public notice and an opportunity to respond to interested parties (40 CFR 403.5(c)(3)). This requirement applies whether Local Limits are set by ordinance or on a case-by-case basis.]

A. The [Superintendent] is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

[Note: The municipality may set limits as instantaneous maximums or for other durations (e.g., Daily Maximum or Monthly Average Limits). The municipality should define these durations in the definition Section.]

B. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following [insert the duration, for example Daily Maximum Limit].

[Note: The approach of charging only for the "excess" loading presumes the standard sewer charges already provide appropriate payment for concentrations up to domestic strength. Many POTWs establish surcharges for conventional pollutants amenable to treatment, such as BOD_5 and TSS. Ordinances should clearly distinguish between surcharges and Local Limits. Surcharges are additional charges to recover the cost to treat wastewater that are typically assessed when discharge concentrations are above defined values, typically above domestic wastewater. Enforceable Local Limits for conventional pollutants are established where there is potential for these pollutants to be discharged to the POTW in quantities or concentrations that could exceed the POTW's plant capacity. When IUs discharge in excess of a Local Limit, they are subject to enforcement actions.]

[ ] mg/l ammonia
[ ] mg/l arsenic
[ ] mg/l BOD_5
[ ] mg/l cadmium
[ ] mg/l chromium
[ ] mg/l copper
[ ] mg/l cyanide
[ ] mg/l lead
[ ] mg/l mercury
[ ] mg/l molybdenum
[ ] mg/l nitrogen (total)
[ ] mg/l nickel
[ ] mg/l oil and/or grease **[Note: Oil and/or grease limits should be defined as a polar, nonpolar, or total oil and grease limits.]**
[ ] mg/l selenium
[ ] mg/l silver
[ ] mg/l total phenols
[ ] mg/l total suspended solids
[ ] mg/l zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. [The Superintendent] may impose mass limitations in addition to the concentration-based limitations above.

[Note: For additional information on Local Limits, refer to Local Limits Development Guidance, EPA Office of Wastewater Management, July 2004, EPA (833-R-04-002A). Available via the Web at
http://www.epa.gov/npdes/pubs/final_local_limits_guidance.pdf and
http://www.epa.gov/npdes/pubs/final_local_limits_appendices.pdf]

{Optional} [Note: The following optional provision may be included in the local ordinances only if authorized under State law.]

C. [The Superintendent] may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits [or general permits **{optional}**], to implement Local Limits and the requirements of Section 2.1.

2.5 [City's] Right of Revision

The [City] reserves the right to establish, by ordinance or in individual wastewater discharge permits [or in general permits **{optional}**], more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

2.6 Dilution

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. [The Superintendent] 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.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA, the State, or [the Superintendent], whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to [the Superintendent] for review, and shall be acceptable to [the Superintendent] 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 ordinance.

3.2 Additional Pretreatment Measures

{Optional}[Note: The following provisions are optional. The municipality may include provisions authorizing it to do the following.]

A. Whenever deemed necessary, [the Superintendent] 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 such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.

B. [The Superintendent] 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. An individual wastewater discharge permit [or a general permit **{optional}**] may be issued solely for flow equalization.

[Note: The City should modify this Section to conform to design, maintenance, inspection and BMP requirements for oil and grease control.]

C. Grease, oil, and sand interceptors shall be provided when, in the opinion of [the Superintendent], they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by [the Superintendent], [shall comply with [the City's Oil and Grease Management ordinance (if applicable, cite), and] shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired [in accordance with [the City's Oil and Grease Management ordinance (if applicable, cite)] by the User at their expense.

D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans

[The Superintendent] shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. [The Superintendent] may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, [the Superintendent] may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

A. Description of discharge practices, including nonroutine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying [the Superintendent] of any accidental or Slug Discharge, as required by Section 6.6 of this ordinance; and

D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

[Note: The municipality will ensure that hauled industrial waste is adequately regulated and should take measures to ensure that haulers of septic tank waste are not introducing industrial waste to the POTW. The following is one possible means of regulating hauled waste.]

A. Septic tank waste may be introduced into the POTW only at locations designated by [the Superintendent], and at such times as are established by [the Superintendent]. Such waste shall not violate Section 2 of this ordinance or any other requirements established by [the City]. [The

Superintendent] may require septic tank waste haulers to obtain individual wastewater discharge permits [or general permits **{optional}**].

B. [The Superintendent] may require haulers of industrial waste to obtain individual wastewater discharge permits [or general permits **{optional}**]. [The Superintendent] may require generators of hauled industrial waste to obtain individual wastewater discharge permits [or general permits **{optional}**]. [The Superintendent] also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

C. Industrial waste haulers may discharge loads only at locations designated by [the Superintendent]. No load may be discharged without prior consent of [the Superintendent]. [The Superintendent] may collect samples of each hauled load to ensure compliance with applicable Standards. [The Superintendent] may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 4—INDIVIDUAL WASTEWATER DISCHARGE PERMITS [and GENERAL PERMITS **{optional}**]

[Note: The municipality must control SIUs through individual wastewater discharge [or general {optional}] permits. Where provided by State law, the Control Authority may establish the authority to use a general permit where certain conditions listed in Section 4.6 (40 CFR 403.8(f)(1)(iii)) are met.]

4.1 Wastewater Analysis

When requested by [the Superintendent], a User must submit information on the nature and characteristics of its wastewater within [( )] days of the request. [The Superintendent] is authorized to prepare a form for this purpose and may periodically require Users to update this information.

4.2 Individual Wastewater Discharge Permit [and General Permit **{optional}**] Requirement

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit [or a general permit **{optional}**] from [the Superintendent], except that a Significant Industrial User that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.

B. [The Superintendent] may require other Users to obtain individual wastewater discharge permits [or general permits **{optional}**] as necessary to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of an individual wastewater discharge permit [or a general permit **{optional}**] shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining an individual wastewater discharge permit [or a general permit **{optional}**] does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

4.3 Individual Wastewater Discharge [and General **{optional}**] Permitting: Existing Connections

Any User required to obtain an individual wastewater discharge permit [or a general permit **{optional}**] who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within [_____ (____)] days after said date, apply to [the Superintendent] for an individual wastewater discharge permit [or a general permit **{optional}**] in accordance with Section 4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after [_____ (____)] days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit [or a general permit **{optional}**] issued by [the Superintendent].

4.4 Individual Wastewater Discharge [and General {optional}] Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit [or a general permit **{optional}**] who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit [or general permit **{optional}**], in accordance with Section 4.5 of this ordinance, must be filed at least [_____ (____)] days prior to the date upon which any discharge will begin or recommence.

4.5 Individual Wastewater Discharge [and General **{optional}**] Permit Application Contents

[Note: This Section lists the information IUs must provide in their application for an individual wastewater discharge permit or general permit (control mechanism). Permits may be individual wastewater discharge permits or general permits (See Section 4.6) if allowed by the POTW (Control Authority). POTWs might want to modify the type of information required in permit applications on the basis of the size and type of IU and the type of permit (individual wastewater discharge permit vs. general permit.) The list of information to be submitted in a permit application has been expanded in this version of the model ordinance to include the new general permit application requirements (40 CFR 403.8(f)(1)(iii)(A)(2)) and to capture the baseline monitoring report (BMR) information which was previously in Section 6.1B (40 CFR 403.12(b)(1)-(7)). The BMR Section (6.1B) currently refers back to this (Section 4.5) regarding information

that must be submitted in the BMR.]

A. All Users required to obtain an individual wastewater discharge permit [or a general permit **{optional}**] must submit a permit application. Users that are eligible may request a general permit under Section 4.6. [The Superintendent] may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

a. The name and address of the facility, including the name of the operator and owner.
b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
d. Type and amount of raw materials processed (average and maximum per day);
e. 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;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2C (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by [the Superintendent], of regulated pollutants in the discharge from each regulated process.
c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the [Superintendent] or the applicable Standards to determine compliance with the Standard.
e. Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 6.4 B [40 CFR 403.12(e)(2)]. **{Optional} [Note: This provision is required only if the municipality has incorporated Section 6.4B into its ordinance.]**

(9) Any request to be covered by a general permit based on Section 4.6. **{Optional} [Note: This provision is only required if the municipality has incorporated Section 4.6 into its ordinance.]**

(10) Any other information as may be deemed necessary by [the Superintendent] to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

4.6 Wastewater Discharge Permitting: General Permits **{Optional}**

[Note: The option to issue general permits in lieu of individual permits is available only if authorized under State law. In such cases, State law may include additional general permit requirements. See 40 CFR 403.8(f)(1)(iii)(A)]

A. At the discretion of the [Superintendent], the [Superintendent] may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(1) Involve the same or substantially similar types of operations;
(2) Discharge the same types of wastes;
(3) Require the same effluent limitations;
(4) Require the same or similar monitoring; and
(5) In the opinion of the [Superintendent], are more appropriately controlled under a general permit than under individual wastewater discharge permits.

B. To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with Section 6.4 B for a monitoring waiver for a pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the [Superintendent] has provided written notice to the SIU that such a waiver request has been granted in accordance with Section 6.4B.

C. The [Superintendent] will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Section 4.6A(1) to (5) and applicable State regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the general permit. **[Note: See 40 CFR 403.8(f)(1)(iii)(A)(1) through (5).]**

D. The [Superintendent] may not control an SIU through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the Combined Wastestream Formula (Section 2.2C) or Net/Gross calculations (Section 2.2 D). **[Note: See 40 CFR 403.6(e) and 40 CFR 403.15]**

4.7 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 6.14 A. **[Note: Definition of Authorized Representative has been revised, see definition at Section 1.4 C]**

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

{Optional} [Note: The following optional provision is required if the municipality has incorporated Section 1.4GG(3) into its ordinance].

C. A facility determined to be a Non-Significant Categorical Industrial User by [the Superintendent] pursuant to 1.4 GG(3) must annually submit the signed certification statement in Section 6.14 B. **[Note: See 40 CFR 403.3(v)(2)]**

4.8 Individual Wastewater Discharge [and General **{optional}**] Permit Decisions

[The Superintendent] will evaluate the data furnished by the User and may require additional information. Within [_____ (____)] days of receipt of a complete permit application, [the Superintendent] will determine whether to issue an individual wastewater discharge permit [or a general permit **{optional}**]. [The Superintendent] may deny any application for an individual wastewater discharge permit [or a general permit **{optional}**].

SECTION 5—INDIVIDUAL WASTEWATER DISCHARGE [AND GENERAL **{optional}**] PERMIT ISSUANCE

5.1 Individual Wastewater Discharge [and General **{optional}**] Permit Duration

An individual wastewater discharge permit [or a general permit **{optional}**] shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit [or a general permit **{optional}**] may be issued for a period less than five (5) years, at the discretion of [the Superintendent]. Each individual wastewater discharge permit [or a general permit **{optional}**] will indicate a specific date upon which it will expire.

5.2 Individual Wastewater Discharge Permit [and General Permit **{optional}**] Contents

An individual wastewater discharge permit [or a general permit **{optional}**] shall include such conditions as are deemed reasonably necessary by [the Superintendent] to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits [and general permits **{optional}**]) must contain:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date; **[Note: See Section 5.1.]**

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to [the City] in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards; ***[Note: Required Streamlining Rule Change]***

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management

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

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 6.4 B. **{Optional} [Note: This provision is required only if the municipality has incorporated Section 6.4B into its ordinance. Section 4.5A (8) includes an instruction to the permittees to include requests for a new (or renewal of an existing) monitoring waiver for a pollutant neither present nor expected to be present in the discharge. See 40 CFR 403.12(e)(2).]**

(6) 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.

(7) Requirements to control Slug Discharge, if determined by the [Superintendent] to be necessary.***[Note: Required Streamlining Rule Change]***

(8) Any grant of the monitoring waiver by the [Superintendent] (Section 6.4 B) must be included as a condition in the User's permit [or other control mechanism]. **{Optional} [Note: This provision is required only if the municipality has incorporated Section 6.4B into its ordinance.]**

B. Individual wastewater discharge permits [or general permits **{optional}**] may contain, but need not be limited to, the following conditions:

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

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

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

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

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

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

(7) A statement that compliance with the individual wastewater discharge permit [or the general permit **{optional}**] 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 individual wastewater discharge permit [or the general permit **{optional}**]; and

(8) Other conditions as deemed appropriate by [the Superintendent] to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Permit Issuance Process {optional}

A. Public Notification. The [Superintendent] will publish [in an official government publication and/or newspaper(s) of general circulation that provides meaningful public notice with the jurisdiction(s) served by the POTW, or on a Web page], a notice to issue a pretreatment permit, at least [_____ (____) fill in number] days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

B. Permit Appeals. [The Superintendent] shall provide public notice of the issuance of an individual wastewater discharge permit [or a general permit **{optional}**]. Any person, including the User, may petition [the Superintendent] to reconsider the terms of an individual wastewater discharge permit [or a general permit **{optional**}] within [_____ (____) fill in number] days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the individual wastewater discharge permit [or a general permit **{optional}**] provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit [or a general permit **{optional}**].

(3) The effectiveness of the individual wastewater discharge permit [or a general permit **{optional}**] shall not be stayed pending the appeal.

(4) If [the Superintendent] fails to act within [_____ (____)] days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit [or a general permit **{optional}**], not to issue an individual wastewater discharge permit [or a general permit **{optional}**], or not to modify an

individual wastewater discharge permit [or a general permit **{optional}**] shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit [or general permit **{optional}**] decision must do so by filing a complaint with the [insert name of appropriate Court] for [proper jurisdiction] within [insert appropriate State Statute of Limitations].

5.4 Permit Modification

A. [The Superintendent] may modify an individual wastewater discharge permit for good 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 the individual 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 City's] POTW, [City] personnel, or the receiving waters; **[Note: The Control Authority should consider threats to the POTW's beneficial sludge use.]**

(5) Violation of any terms or conditions of the individual 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 individual wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

{Optional}[Note: The following provision is optional. The municipality may include a provision authorizing it to do the following.]

B. [The Superintendent] may modify a general permit for good 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) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(3) To correct typographical or other errors in the individual wastewater discharge permit; or

(4) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

5.5 Individual Wastewater Discharge Permit [and General Permit {optional}] Transfer

Individual wastewater discharge permits [or coverage under general permits **{optional}**] may be transferred to a new owner or operator only if the permittee gives at least [_____ (____)] days advance notice to [the Superintendent] and [the Superintendent] approves the individual wastewater discharge permit [or the general permit coverage **{optional}**] transfer. The notice to [the Superintendent] must include a written certification by the new owner or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit [or general permit **{optional}**].

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit [or coverage under the general permit **{optional}**] void as of the date of facility transfer.

5.6 Individual Wastewater Discharge Permit [and General Permit **{optional}**] Revocation

[The Superintendent] may revoke an individual wastewater discharge permit [or coverage under a general permit **{optional}**] for good cause, including, but not limited to, the following reasons:

A. Failure to notify [the Superintendent] of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to [the Superintendent] of changed conditions pursuant to Section 6.5 of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow [the Superintendent] timely access to the facility premises and records;

G. Failure to meet effluent limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit [or the general permit **{optional}**] or this ordinance.

Individual wastewater discharge permits [or coverage under general permits **{optional}**] shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits [or general permits **{optional}**] issued to a User are void upon the issuance of a new individual wastewater discharge permit [or a general permit **{optional}**] to that User.

5.7 Individual Wastewater Discharge Permit [and General Permit **{optional}**] Reissuance

A User with an expiring individual wastewater discharge permit [or general permit **{optional}**] shall apply for individual wastewater discharge permit [or general permit **{optional}**] reissuance by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a minimum of [_____ (____)] days prior to the expiration of the User's existing individual wastewater discharge permit [or general permit **{optional}**].

5.8 Regulation of Waste Received from Other Jurisdictions

[Note: The municipality must ensure that discharges received from entities outside its jurisdictional boundaries are regulated to the same extent as are discharges from within its jurisdictional boundaries. How a municipality regulates such discharges largely will be determined by what is allowed under its State law. The municipality must determine the extent of its authority under State law to regulate Users located outside its jurisdictional boundaries. If the municipality does not have the legal authority to issue enforceable permits directly to extrajurisdictional dischargers and cannot obtain this authority under State law, it should strongly consider entering into an agreement with the municipality in which the dischargers are located. The agreement would require that the contributing municipality either regulate the dischargers within its jurisdiction directly or allow the municipality (in which the POTW is located) to regulate such dischargers. Following is one possible means of regulating dischargers located outside the municipality's jurisdictional boundaries.]

A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, [the Superintendent] shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A, above, [the Superintendent] shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as [the Superintendent] may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 2.4 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to [the City's] ordinance or Local Limits;

(2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit [or general permit **{optional}**] issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by [the Superintendent]; and which of these activities will be conducted jointly by the contributing municipality and [the Superintendent];

(4) A requirement for the contributing municipality to provide [the Superintendent] with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring [the Superintendent] access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by [the Superintendent]; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

[Note: Where the contributing municipality has primary responsibility for permitting, compliance monitoring, or enforcement, the intermunicipal agreement should specify that the municipality (in which the POTW is located) has the right to take action to enforce the terms of the contributing municipality's ordinance or to impose and enforce Pretreatment Standards and Requirements directly against dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.]

SECTION 6—REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

[Note: Users that become subject to new or revised categorical Pretreatment Standards are required to comply with the following reporting requirements even if they have been designated as Non-Significant Categorical Industrial Users]

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to [the Superintendent] a report which

contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to [the Superintendent] a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

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

(1) All information required in Section 4.5A (1) (a), Section 4.5A (2), Section 4.5A (3) (a), and Section 4.5A (6). **[Note: See 40 CFR 403.12(b)(1)-(7)]**

(2) Measurement of pollutants.

a. The User shall provide the information required in Section 4.5 A (7) (a) through (d).
b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
d. Sampling and analysis shall be performed in accordance with Section 6.10;
e. The [Superintendent] may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.4 C 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.

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

Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this ordinance and signed by an Authorized Representative as defined in Section 1.4C.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(4) of this ordinance:

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

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

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

D. In no event shall more than nine (9) months elapse between such progress reports to [the Superintendent].

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to [the Superintendent] a report containing the information described in Section 4.5A(6) and (7) and 6.1(B)(2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2 **[Note: See 40 CFR 403.6(c)]**, this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance. All sampling will be done in conformance with Section 6.11.

6.4 Periodic Compliance Reports

[Note: All SIUs are required to submit periodic compliance reports even if they have been designated a Non-Significant Categorical Industrial User under the provisions of Section 6.4 C.]

A. Except as specified in Section 6.4.C, all [Significant Industrial] Users must, at a frequency determined by [the Superintendent] submit no less than twice per year (June and December [or on dates specified]) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by [the Superintendent] or the Pretreatment Standard necessary to determine the compliance status of the User ***[Note: Required Streamlining Rule Change]***.

{Optional} [Note: The following optional provision may be included in the local ordinances only if authorized under State law. Criteria for monitoring waivers must also include any criteria defined in applicable State law requirements.]

B. The [City] may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

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

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 4.5A(8).

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

(4) The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 A (40 CFR 403.6(a)(2)(ii)).

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

(6) Any grant of the monitoring waiver by the [Superintendent] must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the [Superintendent] for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the User's permit by the [Superintendent], the Industrial User must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 6.4 A, or other more frequent monitoring requirements imposed by the [Superintendent], and notify the [Superintendent].

(9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

[{Optional} Note: The following optional provision may be included in the local ordinances only if authorized under State law. Criteria for reduced reporting must also include any criteria defined in applicable State law.]

C. The [City] may reduce the requirement for periodic compliance reports [see Section 6.4 A (40 CFR 403.12(e)(1))] to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the [EPA/State], where the Industrial User's total categorical wastewater flow does not exceed any of the following:

(1) [insert POTW's value for 0.01 percent of the POTW's design dry-weather *hydraulic capacity* of the POTW], or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches]

(2) [insert POTW's value for 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW]; and

(3) [Insert POTW's value for 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which

approved Local Limits were developed in accordance with Section 2.4 of this ordinance.] **[Note: For example, if the POTW's maximum allowable headworks loading for copper is 5 pounds, then 0.01 percent would be 0.0005 pounds; the POTW would need to do this calculation for each pollutant for which it has approved Local Limits.]**

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 9 of this ordinance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the [Superintendent], decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

D. All periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance.

E. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge. ***[Note: This paragraph supports the Required Streamlining Rule Changes.]***

F. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by [the Superintendent], using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report. **[Note: See 40 CFR 403.12(g)(6)]**

{Optional} [Note: The following optional provision may be included in the local ordinances only where the POTW has been authorized by EPA to accept electronic reports from its IUs and State law authorizes it.]

G. Users that send electronic (digital) documents to [the City] to satisfy the requirements of this Section must: [specify POTW requirements for IU submittal of electronic reports here. **[Note: POTWs that choose to receive electronic documents must satisfy the requirements of 40 CFR Part 3—(Electronic reporting)]**

6.5 Reports of Changed Conditions

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

A. [The Superintendent] may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this ordinance.

B. [The Superintendent] may issue an individual wastewater discharge permit [or a general permit **{optional}**] under Section 5.7 of this ordinance or modify an existing wastewater discharge permit [or a general permit **{optional}**] under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.

6.6 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify [the Superintendent] of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five (5) days following such discharge, the User shall, unless waived by [the Superintendent], submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance**. {Optional} [Note: This report is not required under the General Pretreatment Regulations and, therefore, is optional.]**

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

D. Significant Industrial Users are required to notify the [Superintendent] immediately of any changes at its facility affecting the potential for a Slug Discharge. ***[Note: Required Streamlining Rule Change]***

6.7 Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit [or general permit **{optional}**] shall provide appropriate reports to [the Superintendent] as [the Superintendent] may require.

6.8 Notice of Violation/Repeat Sampling and Reporting

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

[Note: ***Required Streamlining Rule Change needed if POTW performs sampling in lieu of the Industrial Users.*** **If the City performed the sampling and analysis in lieu of the Industrial User, the City will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis. See 40 CFR 403.12(g) (2).]**

6.9 Notification of the Discharge of Hazardous Waste

[Note: The municipality may choose to prohibit the discharge of hazardous wastes.]

A. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.

B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of 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 Superintendent], the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this Section, the 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 ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.10 Analytical Requirements

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

6.11 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. **[Note: The Control Authority is require to indicate the frequency of monitoring necessary to assess and assure compliance by the User with applicable Pretreatment Standards and Requirements.]**

[Note: In the Streamlining Rule changes, Paragraphs A and B below have been deleted from 40 CFR 403.12(b)(5) and added to 40 CFR 403.12(g)(3). The original paragraphs relate to Categorical Industrial User monitoring reports only while the relocated paragraphs apply to <u>all</u> SIU monitoring.]

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by [the Superintendent]. Where time-proportional composite sampling or grab sampling is authorized by [the City], the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by [the City], as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits. ***[Note: Required Streamlining Rule Change.*** **See 40 CFR 403.12(g)(3)]**

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

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, [the Superintendent] may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements. ***[Note: Required Streamlining Rule Change,*** **see 40 CFR 403.12(g)(4).]**

6.12 Date of Receipt of Reports

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

6.13 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 2.4 C. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period

shall be automatically extended for the duration of any litigation concerning the User or [the City], or where the User has been specifically notified of a longer retention period by [the Superintendent]. ***[Note: The recordkeeping requirements for BMPs are a Required Streamlining Rule Change.]***

6.14 Certification Statements

[Note: This Section has been modified to consolidate the certification statements previously listed elsewhere. Section 4.7A&C—Certification of all wastewater discharge permit applications, and User reports and annual certification of NSCIUs, Section 6.4B(4)—"initial" certification for pollutants not present, Section 6.4B (7)—Certification of periodic reports of pollutants not present, Section 6.4D—Certification of all periodic compliance reports.]

[Note: 40 CFR 403.12 (l) requires that the certification which follows be provided for IU Baseline Monitoring Reports (BMRs) (403.12(b), IU Reports on Compliance with Categorical Pretreatment Standards Deadline (90-day compliance report) (403.12(d), CIU Periodic Reports on Continued Compliance (403.12(e)) and the initial request from CIUs to forego Monitoring for Pollutants Not Present. In addition to CIUs, the model ordinance requires this certification statement for all wastewater discharge permit applications and User reports. Furthermore, the POTW should require this certification statement for all noncategorical SIU compliance reports.]

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.7; Users submitting baseline monitoring reports under Section 6.1 B (5) **[Note: See 40 CFR 403.12 (l)]**; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3 **[Note: See 40 CFR 403.12(d)]**; Users submitting periodic compliance reports required by Section 6.4 A–D **[Note: See 40 CFR 403.12(e) and (h)]**, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4B(4)**[Note: See 40 CFR 403.12(e)(2)(iii)].** The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

> 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.

{Optional} [Note: The following optional provision is required if the municipality has incorporated Section 1.4 GG(3) into its ordinance].

B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by [the Superintendent] pursuant to 1.4 GG(3) and 4.7 C **[Note: See 40 CFR 403.3(v)(2)]** must annually submit the following certification statement signed in accordance with the signatory requirements in 1.4 C **[Note: See 40 CFR 403.120(l)]**. This certification must accompany an alternative report required by [the Superintendent]:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:
>
> (a) The facility described as _____
> [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 GG (3); **[Note: See 40 CFR 403.3(v)(2)]**
>
> (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.
>
> This compliance certification is based on the following information.
>
> _____
>
> _____

{Optional} [Note: The following optional provision is required if the municipality has incorporated Section 6.4 B into its ordinance].

C. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 6.4 B must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User. **[Note: See 40 CFR 403.12(e)(2)(v)]**

> Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 6.4.A.

SECTION 7—COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

[The Superintendent] shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit [or general permit **{optional}**] or order issued hereunder. Users shall allow [the Superintendent] ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, [the Superintendent] shall be permitted to enter without delay for the purposes of performing specific responsibilities.

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

C. [The Superintendent] may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated [insert desired frequency] to ensure their accuracy.

D. 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 Superintendent] and shall not be replaced. The costs of clearing such access shall be born by the User.

E. Unreasonable delays in allowing [the Superintendent] access to the User's premises shall be a violation of this ordinance.

[Note: POTWs should consider situations when the monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location. The ordinance should indicate that the location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the [Supervisor's] requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the [Supervisor] to perform independent monitoring activities.]

7.2 Search Warrants

[Note: The specific process by which search warrants may be issued will vary from City to City. The procedure will likely be a matter of State law. This provision will need to be adjusted based on the particular procedure followed in that State and City.]

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

SECTION 8—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, [general permits, **{optional}**] and monitoring programs, and from [the Superintendent's] inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of [the Superintendent], that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

[Note: Unless the optional (underlined) revisions to the SNC provisions have been made by the State, the POTW must retain the previous requirements. The optional revisions include the public notice in a newspaper of general circulation that provides meaningful public notice within the jurisdiction, publishing SIUs and other IUs that have adversely affected the POTW, and that IU reports submitted more than 45 days late constitutes SNC. See 40 CFR 403.8(f) (2)(viii)(A-C).]

[The Superintendent] shall publish annually, in <u>a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by [the POTW]</u>, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to

all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2; ***[Note: Required Streamlining Rule Change,* see 40 CFR 403.3(l)]**

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH); ***[Note: Required Streamlining Rule Change,* see 40 CFR 403.3(l)]**

C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that [the Superintendent] determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public; ***[Required Streamlining Rule Change,* see 40 CFR 403.3(l)]**

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in [the Superintendent's] exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit [or a general permit **{optional}**] or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within <u>forty-five (45)</u> 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;

G. Failure to accurately report noncompliance; or

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

SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

[Note: The municipality must refer to State law to see if the remedies listed in Sections 10, 11, and 12 are allowable. The municipality must have the authority to seek injunctive relief for noncompliance and to seek or assess penalties of at least $1,000 a day for each violation of Pretreatment Standards or Requirements by Industrial Users.]

10.1 Notification of Violation

When [the Superintendent] finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, [or a general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent] may serve upon that User a written Notice of Violation. Within [( )] days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to [the Superintendent]. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of [the Superintendent] to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

[The Superintendent] may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

[The Superintendent] may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, [or a general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before [the Superintendent] and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least [_____ (____)] days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders

When [the Superintendent] finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, [or a general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent] may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.5 Cease and Desist Orders

When [the Superintendent] finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, [or a general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, [the Superintendent] may issue an order to the User directing it to cease and desist all such violations and directing the User to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.6 Administrative Fines

[Note: The municipality should consult State law to determine whether it has the legal authority to impose administrative penalties.]

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

B. Unpaid charges, fines, and penalties shall, after [_____ (____)] calendar days, be assessed an additional penalty of [_____ percent (____%)] of the unpaid balance, and interest shall accrue thereafter at a rate of [_____ percent (____%)] per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for [the Superintendent] to reconsider the fine along with full payment of the fine amount within [_____ (____)] days of being notified of the fine. Where a request has merit, [the Superintendent] may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. [The Superintendent] may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

10.7 Emergency Suspensions

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

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, [the Superintendent] may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. [The Superintendent] may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of [the Superintendent] that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the User.

B. 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 Superintendent] prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance.

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

10.8 Termination of Discharge

In addition to the provisions in Section 5.6 of this ordinance, any User who violates the following conditions is subject to discharge termination:

A. Violation of individual wastewater discharge permit [or general permit **{optional}**] conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

E. Violation of the Pretreatment Standards in Section 2 of this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by [the Superintendent] shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When [the Superintendent] finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, [or a general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent] may petition the [insert name of appropriate Court] through [the City's] Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, [the general permit, **{optional}**] order, or other requirement imposed by this ordinance on activities of the User. [The Superintendent] may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

[Note: The municipality must have the minimum authority to seek civil or criminal penalties in the amount of at least $1,000 per day per violation.]

A. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, [or a general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to [the City] for a maximum civil penalty of [insert maximum allowed under State law but not less than $1,000] per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. [The Superintendent] may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by [the City].

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration 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.

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

11.3 Criminal Prosecution

[Note: To the extent State law authorizes a municipality to prosecute violations of local ordinances as a crime under State law, the municipality should include the following provision in its local ordinance.]

A. A User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, [or a general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than [insert maximum fine allowed under State law] per violation, per day, or imprisonment for not more than [_____ (____)] years, or both.

B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a [misdemeanor] and be subject to a penalty of at least [insert maximum fine allowable under State law], or be subject to imprisonment for not more than [_____ (____)] years, or both. 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 knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, [or general permit **{optional}**]or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon

conviction, be punished by a fine of not more than [insert maximum fine allowable under State law] per violation, per day, or imprisonment for not more than [_____ (____)] years, or both.

D. In the event of a second conviction, a User shall be punished by a fine of not more than [insert maximum fine allowable under State law] per violation, per day, or imprisonment for not more than [_____ (____)] years, or both.

11.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. [The Superintendent] may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with [the City's] enforcement response plan. However, [the Superintendent] may take other action against any User when the circumstances warrant. Further, [the Superintendent] is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Penalties for Late Reports **{Optional}**

A penalty of $[xx] shall be assessed to any User for each day that a report required by this ordinance, a permit or order issued hereunder is late, beginning five days after the date the report is due [higher penalties may also be assessed where reports are more than 30-45 days late]. Actions taken by [the Superintendent] to collect late reporting penalties shall not limit [the Superintendent's] authority to initiate other enforcement actions that may include penalties for late reporting violations.

12.2 Performance Bonds **{Optional}**

[The Superintendent] may decline to issue or reissue an individual wastewater discharge permit [or a general permit **{optional}**] to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, [or a previous general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to [the City], in a sum not to exceed a value determined by [the Superintendent] to be necessary to achieve consistent compliance.

12.3 Liability Insurance **{Optional}**

[The Superintendent] may decline to issue or reissue an individual wastewater discharge [or a general permit **{optional}**] to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, [or a previous general permit **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

12.4 Payment of Outstanding Fees and Penalties **{Optional}**

[The Superintendent] may decline to issue or reissue an individual wastewater discharge permit [or a general permit **{optional}**] to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, [or a previous general permit **{optional}**] or order issued hereunder.

12.5 Water Supply Severance **{Optional}**

Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, [a general permit, **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

12.6 Public Nuisances **{Optional}**

A violation of any provision of this ordinance, an individual wastewater discharge permit, [a general permit, **{optional}**] or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by [the Superintendent]. Any person(s) creating a public nuisance shall be subject to the provisions of [the City Code] [insert proper citation] governing such nuisances, including reimbursing [the City] for any costs incurred in removing, abating, or remedying said nuisance.

12.7 Informant Rewards **{Optional}**

[The Superintendent] may pay up to [_____ dollars ($____)] for information leading to the discovery of noncompliance by a User. In the event that the information provided results in a civil penalty [or an administrative fine] levied against the User, [the Superintendent] may disperse up to [_____ percent (____%)] of the collected fine or penalty to the informant. However, a single reward payment may not exceed [_____ dollars ($____)].

12.8 Contractor Listing **{Optional}**

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to [the City]. Existing contracts for the sale of goods or services to [the City] held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of [the Superintendent].

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

[Note: Although Federal law allows the affirmative defenses set out in this Section, some Approved States do not allow for one or more of the affirmative defenses listed below.]

13.1 Upset

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

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (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 Superintendent] within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

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

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

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

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

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

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.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1(B)(3) through [(__)] of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

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

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

[Note: The references in Section 13.2 should refer only to specific prohibitions actually listed in the ordinance. Also note that, pursuant to 40 CFR 403.5(a)(2), the affirmative defense outlined in Section 13.2 cannot apply to the specific prohibitions in Sections 2.1B(1) and (2), and (8).]

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

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 paragraphs (C) and (D) of this Section.

C. Bypass Notifications

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

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

D. Bypass

(1) Bypass is prohibited, and [the Superintendent] 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 paragraph (C) of this section.

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

SECTION 14—WASTEWATER TREATMENT RATES - [RESERVED]

SECTION 15—MISCELLANEOUS PROVISIONS **{Optional}**

15.1 Pretreatment Charges and Fees **{Optional}**

[The City] may adopt reasonable fees for reimbursement of costs of setting up and operating [the City's] Pretreatment Program, which may include:

A. Fees for wastewater discharge permit applications including the cost of processing such applications;

B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
C. Fees for reviewing and responding to accidental discharge procedures and construction;
D. Fees for filing appeals;
E. Fees to recover administrative and legal costs (not included in Section 15.1 B) associated with the enforcement activity taken by the [Superintendent] to address IU noncompliance; and

F. 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 ordinance and are separate from all other fees, fines, and penalties chargeable by [the City].

15.2 Severability **{Optional}**

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 16—EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.