

Chapter 47

WATER AND SEWERS

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ARTICLE V. INDUSTRIAL WASTEWATER

Sec. 47-186. Purpose and Policy.

(a) This article sets forth uniform requirements for users of the wastewater system, to enable the city of Houston to comply with all applicable state and federal laws, including the Federal Water Pollution Control Act, as amended by the Clean Water Act, as amended (33 USC §§1251 et seq.) and the general pretreatment regulations (Title 40, Code of Federal Regulations, Part 403). The purposes and objectives of this article are:

(1) to prevent the introduction of pollutants into the wastewater system that will interfere with its operation;

(2) to prevent the introduction of pollutants into the wastewater system that will pass, inadequately treated, through the wastewater system and into receiving waters, or that will otherwise be incompatible with the wastewater system;

(3) to protect the health and safety of both the wastewater system's personnel and the general public;

(4) to promote the reuse and recycling of industrial wastewater and sludge within the wastewater system;

(5) to provide for wastewater contracts between the city and other municipalities or extra-jurisdictional users who discharge to the wastewater system; and

(6) to enable the city to comply with its Texas Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the wastewater system is subject.

(b) *Incorporation of EPA or TCEQ standards.* All categorical pretreatment standards, sewage pretreatment rules, lists of toxic pollutants, industrial categories, and other applicable standards, laws, rules, and regulations promulgated by the EPA or TCEQ, including all future amendments of those standards, laws, rules, and regulations, are incorporated into this article.

Sec. 47-187. General provisions.

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

The discharge of industrial waste to the sanitary sewer system shall be done in strict conformance to this article and this article shall be construed to strictly prohibit the unauthorized

discharge of any wastewater stream to the sanitary sewer system, and to grant all powers the control authority needs to fulfill the purposes and objectives of this article, the Clean Water Act (33 U.S.C. § 1251 et seq.), and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [C.F.R.] Part 403), including disconnecting wastewater services.

(b) *Administration.* Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to a city employee.

The director shall be authorized to act for the city as control authority of the POTW. The city shall have the legal authority to enforce any and all pretreatment standards as well as pretreatment requirements specified by regulations promulgated by the EPA, including but not limited to the powers enumerated in 40 C.F.R. § 403.8(f)(1), as amended, and same are hereby incorporated herein by this reference. Any industrial user that is subject to pretreatment standards or requirements promulgated by the EPA or the TCEQ. In case of any conflict between a pretreatment standard or requirement promulgated by the EPA or the TCEQ and any standard or requirement imposed elsewhere by this article, the standard or requirement that is more protective of human health and the environment shall apply.

(c) *Abbreviations.* The following abbreviations, when used in this article and in permits issued or agreements entered into pursuant to this article, shall have the designated meanings:

BOD	–	Biochemical oxygen demand.
BMP	–	Best management practice.
BMR	–	Baseline monitoring report.
C.F.R.	–	Code of Federal Regulations.
CIU	–	Categorical industrial user.
COD	–	Chemical oxygen demand.
EPA	–	U.S. Environmental Protection Agency.
IU	–	Industrial user.
mg/L	–	Milligrams per liter.
POTW	–	Publicly owned treatment works.
RCRA	–	Resource Conservation and Recovery Act, 42 U.S.C. § 6922, et seq., and its implementing regulations.
SIU	–	Significant industrial user.
SNC	–	Significant non-compliance.
TBLL	-	Technically based local limit.

- TCEQ – Texas Commission on Environmental Quality or its successor agency.
- TexTox – Texas Toxicity Modeling Program.
- TPDES – Texas Pollutant Discharge Elimination System.
- TSS – Total suspended solids.
- TTO – Total toxic organics.
- U.S.C. – United States Code.

(d) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article and in permits issued or agreements entered into pursuant to this article, shall have the meanings hereinafter designated.

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

Approval authority. The State of Texas and the TCEQ.

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 initiating and directing 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 or general wastewater discharge permit requirements; and has been assigned or delegated authority to sign documents in accordance with corporate procedures.
- (2) If the user is a partnership, limited liability company, or sole proprietorship: a general partner, limited liability company individual member, 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) Individuals, including the individuals described in items (1) through (3) of this definition, 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 director.

Best management practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in section 47-188(a) of this article and 40 C.F.R. § 403.5(a)(1) and (b). BMPs include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs shall be considered local limits and pretreatment standards for the purposes and objectives of this article and Section 307(d) of the Act.

Biochemical oxygen demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at a temperature of 20° Celsius ("C"), usually expressed as a concentration (e.g., mg/L).

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

Categorical industrial user. An industrial user subject to a categorical pretreatment standard or categorical standard, excluding dental dischargers subject to 40 C.F.R. Part 441.

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

City. The City of Houston in the State of Texas.

Composite sample. A representative flow- or time-proportioned sample generally collected within a 24-hour period or the operating day of the user and combined according to flow or time, respectively.

Control authority. The City of Houston.

Control manhole. A manhole located outside the property of a user which receives wastewater discharged by a user where that wastewater can be sampled by the city prior to combination with wastewater from other sources.

Daily maximum. The arithmetic average of all effluent samples for a pollutant collected during a 24-hour period.

Daily maximum limit. The maximum allowable discharge limit of a pollutant during a 24-hour period. Where a *daily maximum limit* is expressed in units of mass, the daily discharge is the total mass discharged over the course of the sampling period. Where a

daily maximum limit is expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken during that 24-hour period. If only one measurement is taken during the 24-hour period, that measurement is the daily discharge.

Dental discharger. A source of wastewater to a POTW from a facility where the practice of dentistry is performed as described in 40 C.F.R. Part 441.

Department. Houston Public Works.

Director. The director of Houston Public Works or the director's authorized representative.

Domestic waste. A typical residential-type waste which requires no pretreatment under the provisions of this article and does not contain industrial waste.

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.

Establishment, plant. Any establishment or plant producing industrial waste that is discharged into the sewer system.

Existing source. Any source of discharge that is not a *new source*.

Facility. A place, building, or equipment used for a particular purpose or activity. When used in reference to an industrial user, it means all equipment, buildings, and operations contained within the property boundary of the source of an indirect discharge.

General permit. A general permit is an authorization to discharge that covers a group of dischargers with similar qualities. The director may issue a general permit to a category of users if the discharges of a group of users meets any one or more of the following conditions:

- a. Involve the same or substantially similar types of operations;
- b. Discharge the same types of wastes;
- c. Require the same effluent limitations; or
- d. Require the same or similar monitoring."

Grab sample. A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

Indirect discharge or discharge. The introduction of pollutants into the POTW from any non-domestic source.

Industrial user. Any person that discharges industrial waste into the sanitary sewer system.

Industrial waste. Any waterborne solid, liquid or gaseous waste resulting from any production, industrial, manufacturing, service, or food processing operation or from the development, recovery, or processing of any natural resource including waste that is required to be pretreated by this article or the city's plumbing code. Included in this definition is any wastewater stream subject to pretreatment standards or requirements at 40 C.F.R. Parts 405-471.

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.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, both (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) is a cause of a violation of the city's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/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.

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 C.F.R. § 403.5(a)(1) and (b).

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.

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

Monthly average limit or standard. 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.

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 is 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 sources are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.
- (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 item 1a or 1b 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:
 - 1. Any placement, assembly, or installation of facilities or equipment; or
 - 2. 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 definition.

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.

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 TPDES permit or a TexTox Limit, including an increase in the magnitude or duration of a violation.

Permit. A written document issued by the director which, by its conditions, may authorize the permittee to construct, install, modify, or operate in accordance with stated limitations a specified facility for industrial waste discharge to the POTW.

Permittee, permit holder. Any person who owns, operates, possesses or controls an establishment or plant being operated in accordance with a valid individual or general permit.

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.

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

Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, septic waste, 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).

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 as prohibited by 40 C.F.R. § 403.6(d).

Pretreatment facility. Any device, structure or method that will remove specified pollutants from the wastewater prior to its discharge into the POTW.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards or standards. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. The term includes prohibited discharge standards, categorical pretreatment standards, and local limits. In cases of differing standards or regulations, the most stringent standard shall apply.

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

Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 47-188 of this article.

Publicly owned treatment works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. § 1292), which is owned by the city. 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.

Regulated entity. A user that does not hold a permit under this article but that is authorized by the director to discharge into the POTW.

Sample well or sampling facility. A physical connection on an industrial user's discharge pipe that is constructed to allow access for sampling and inspection.

Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

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

Significant industrial user or SIU. Except as provided in item (3) of this definition, a *significant industrial user* is:

- (1) A categorical industrial user; or
- (2) An industrial user that:
 - a. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - b. Contributes a process waste stream which makes up five 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.
- (3) Upon a finding that a user meeting the criteria in item (2) of this definition 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 C.F.R. § 403.8(f)(6), determine that such user should not be considered a *significant industrial user*.

Slug load or slug discharge. Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in section 47-187 of this article. 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.

Source. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants.

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

Total 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.

User. Any discharger or potential source of indirect discharge, including but not limited to any industrial user, categorical industrial user, significant industrial user, dental discharger or a non-domestic user that has a sewer connection for domestic wastewater discharge only.

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.

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

Sec. 47-188. General sewer use requirements.

- (a) *Prohibited discharge standards.*
 - (1) *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 and the specific prohibitions in item (2) of this subsection 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.
 - (2) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - a. Pollutants which create a fire hazard or explosion hazard in the POTW, including, but not limited to, any wastestreams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 C.F.R. § 261.21;
 - b. Wastewater having a pH less than 5.0 or more than 11.0, or otherwise having the potential to cause corrosive structural damage to the POTW or POTW equipment;
 - c. Any liquid or solid that contains wax, grease, oil, plastics, or other substances that can solidify or become discernibly viscous at temperatures between 15° to 65.5° C (60° to 150° F);
 - d. Solid or viscous substances in amounts which could cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than 3/16 inch in any dimension;
 - e. Wastes from garbage grinders, except waste generated in the preparation of foods that are generally consumed on the premises, and not unless it has been properly comminuted or shredded to reduce all food scraps and like particles to 3/16 inch or less in greatest dimensions. Garbage grinders

shall not be used for grinding plastics, paper products, linens, garden refuse, hospital or veterinarian refuse, or similar refuse for disposal into a city sewer;

- f. Substances that exert or cause:
 - 1. Unusual BOD or an immediate oxygen demand;
 - 2. Unusual concentrations of solids or composition, as an example, in TSS of an inert nature (such as Fuller's earth) or in total dissolved solids (such as sodium chloride or sodium sulfate); or
 - 3. Unusual flow or concentration such that, either alone or by interaction with other substances, may cause interference with the POTW;
- g. Wastewater having a temperature greater than 113° F (45° 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° F (40° C);
- h. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin;
- i. 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;
- j. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 47-189 of this article;
- k. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are capable of causing a
 - 1. Public nuisance or objectionable odor;
 - 2. Hazard to life or property; or
 - 3. Risk to worker health or safety;
- l. Wastewater which imparts color, such as, but not limited to, dye wastes and vegetable tanning solutions, which may impart color to the treatment plant's effluent, thereby violating the city's NPDES or TPDES permit;
- m. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- n. Storm water; surface water; ground water; artesian well water; downspout or roof runoff; subsurface drainage; water from irrigation sprinklers, fountains, or ponds; and unpolluted water, unless specifically authorized by the director;

- o. Sludge, screenings, or other residues from the pretreatment of industrial wastes;
- p. Medical wastes, except as specifically authorized by the director in an individual or general wastewater discharge permit;
- q. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- r. Detergents, surface-active agents, aircraft fire fighting foam, or other substances that may cause excessive foaming in the POTW;
- s. Free or emulsified oil and grease, if such materials:
 - 1. Exceed a concentration of 200 milligrams per liter of free or emulsified oil and grease, provided that a user eligible for a compliance schedule as set forth in subsections 47-188(d)(2)b and 47-188(d)(2)e must not exceed a concentration authorized by an applicable schedule of compliance;
 - 2. Form a discernible floating layer on the surface of the discharge waters;
 - 3. Overload the industrial user's skimming and grease handling equipment;
 - 4. Are not amenable to biological treatment and therefore may pass through to the receiving waters without being affected by normal sewage treatment processes;
 - 5. Have adverse effects on the treatment process due to the excessive quantities; or
 - 6. Deposit oil or grease in the sewer lines in such a manner as to obstruct the sewer;
- t. Any substance which is not amenable to treatment or reduction by the wastewater treatment process employed by a user, or is amenable to treatment only to such degree that the sanitary sewer system cannot meet the requirements of its permits;
- u. Any discharge which fails to meet applicable pretreatment standards or requirements;
- v. Flammable or explosive liquids, solids or gases, including, but not limited to gasoline, kerosene, benzene, naphtha, or 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 ten percent (10%) of the lower explosive limit of the meter;

- w. Substances in such concentrations as to produce odor or taste in the effluent as to affect the taste and odor of the receiving waters;
- x. Any substance that:
 - 1. Forms solids in concentrations exceeding limits established in this article;
 - 2. Causes any other condition that adversely impacts POTW processes, structures, or treatment processes, or increases other costs or expenses of the POTW, provided that the director has provided advance notice to the user of such condition.
- y. Any pollutant discharged directly into a manhole or other opening in the POTW unless specifically authorized by the city or as otherwise permitted under this article; or
- z. 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.

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

- (3) No person shall open a city manhole for the purpose of discharging waste without specific authorization in accordance with this article.

(b) *National categorical pretreatment standards.* Users must comply with the categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405–471, including BMPs or pollution prevention alternatives and reporting requirements.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with subsections 47-188(b)(4) and(b)(5) of this article.
- (2) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director 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.
- (3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with the combined wastestream formula promulgated in 40 C.F.R. § 403.6(e).
- (4) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the city convert the limits to equivalent mass limits. A determination to convert concentration limits to mass

limits is within the discretion of the director. The city may establish equivalent mass limits only if the industrial user meets all the conditions set forth in subsections 47-188 (b)(4) a.1 through 47-188(b)(4) a.5 below.

- a. To be eligible for equivalent mass limits, the industrial user must:
 1. 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;
 2. Use control and treatment technologies adequate, at the time of the request, to achieve compliance with the applicable categorical pretreatment standard; in addition, the industrial user must certify that it is not using dilution as a substitute for treatment under its then current permit or authorization;
 3. Provide sufficient information to establish the facility's actual average daily flow rate for all wastewater streams, 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 operating conditions at the time of the request to use equivalent mass limits;
 4. 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
 5. Have complied with all applicable categorical pretreatment standards prior to the industrial user's request for equivalent mass limits under its then current permit or authorization.
- b. An industrial user subject to equivalent mass limits must:
 1. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 2. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 3. Continue to record the facility's production rates and notify the director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subsection (b)(4) a.3 of this section. Upon notification of a revised production rate, the director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 4. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to

subsection (b)(4)a1 of this section so long as it discharges under an equivalent mass limit.

- c. When developing equivalent mass limits, the director:
 1. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process 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;
 2. 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
 3. May retain the same equivalent mass limit in subsequent individual wastewater discharge 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 47-188(f) of this article. The industrial user must also be in compliance with section 47-199(b) of this article regarding the prohibition of bypass.
- (5) The director may convert the mass limits of the categorical pretreatment standards of 40 C.F.R. 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 director.
- (6) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this section 47-188(b) in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- (7) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating monthly average, or 4-day average limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (8) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the director within two business days after the user has a reasonable basis to know that the production level will change by 20 percent or more from its baseline production rates, as determined in subsection (b)(4) a.3 of this section, within the next calendar month. Any user who does not notify the director in the timeframe prescribed by this subsection of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

(c) *State pretreatment standards.* Users must comply with state pretreatment standards.

(d) *Local limits.*

(1) The director is authorized to establish local limits pursuant to 40 C.F.R. § 403.5(c).

(2) The following pollutant limits are established to protect against pass through and interference:

a. No person shall discharge wastewater containing more than the following daily maximum limits:

Pollutant Parameter	Local Limit, mg/L (Industrial Discharge Flow)	
Arsenic*	1.5	(Flow <1 MGD)
	0.08	(Flow ≥1 MGD)
Cadmium	0.2	
Chromium	1.0	
Copper	2.0	
Cyanide	1.4	(Flow <1 MGD)
	0.5	(Flow ≥1 MGD)
Lead	1.0	
Mercury*	0.01	
Molybdenum*	3.7	(Flow <1 MGD)
	0.9	(Flow ≥1 MGD)
Nickel*	2.0	(Flow <1 MGD)
	0.08	(Flow ≥1 MGD)
Silver	1.0	
Zinc	3.3	

*The limits for Arsenic, Molybdenum, and Nickel are tiered based on the discharge flow rate of the IU; specifically, discharges of 1 MGD or greater are subject to a lower concentration-based limit.

b. No person shall discharge wastewater containing more than the following instantaneous limits:

200 mg/L oil and/or grease, except that existing permittees are eligible for a 2-year schedule to comply subject to paragraph e.

c. Limitations on discharges of the following pollutants are established in the TBLLs portion of the approved program, to be applied on an as-needed basis:

Ammonia

BTEX

Total toxic organics (TTOs)

- d. The limits in subsections 47-188(d)(2)a and 47-188(d)(2)b apply where the wastewater is discharged to the POTW and compliance may be determined at any sample point that captures all or a portion of the process wastewater flow as determined by the director. All concentrations for metallic substances are for total metal unless indicated otherwise. The director may impose mass limitations in addition to the concentration-based limitations set out in subsections 47-188(d)(2)a and 47-188(d)(2)b.
 - e. Existing sources that have an industrial waste permit on _____¹ are eligible for a 2-year schedule to comply with the 200 mg/L oil and grease limit. No later than one year from _____², an existing source, as identified above, must achieve compliance with a limit of 300 mg/L oil and grease. No later than two years from _____³, an existing source must meet the discharge limit set forth in 47-188(d)(2)b.
- (3) The director may develop BMPs, by ordinance approved by City Council or in individual wastewater discharge permits or general permits, to implement local limits and the requirements of sections 47-188(a) of this article. BMPs may not be implemented in lieu of local limits.
 - (4) The director may impose additional or more stringent limitations or pretreatment requirements in a permit as necessary to fulfill the purposes and objectives of this article.
 - (5) Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR Section 403.6(e).
 - (6) The director may determine user's compliance with the local limits or any other applicable limit using grab or composite sampling techniques. Composite samples may be taken by the director or user over a 24-hour period, or over a longer or shorter time span, as determined by the director to meet specific circumstances.
- (e) *City's right of revision.* The city reserves the right to establish, by ordinance or in individual wastewater discharge permits or general permits, more stringent standards or

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requirements on discharges to the POTW consistent with the purposes and objectives of this article.

(f) *Dilution.* No user shall 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 director 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.

(g) *Responsibility to inform.* The industrial user shall make available to the user's employees copies of this article, together with such other wastewater information and notices which may be furnished by the department from time to time for the purpose of improving and making more effective water pollution control.

Sec. 47-189. Pretreatment and monitoring facilities.

(a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in sections 47-188(a) of this article within the time limitations specified by the EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Users shall submit detailed plans describing such facilities and operating procedures to the director for review. Users shall not commence or cause to be commenced construction of facilities until the director has approved the submitted detailed plans.

The user shall submit detailed plans showing any proposed new construction, modifications, and significant changes in pretreatment facilities or method of operation to the director for review and approval prior to implementation. The user shall obtain any necessary construction permits before new construction or modifications of an existing facility may commence.

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 article.

Within 90 days after the completion of the wastewater pretreatment facility, the permittee shall submit as-built drawings and its procedures for operations and maintenance to the director.

(b) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the director 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 wastewater streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

(2) The director 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 general permit may be issued solely for flow equalization.

- (3) The director may require users with potential flammable discharge substances to install and maintain an approved combustible gas detection meter.

(c) *Accidental discharge/slug discharge control plans.* The director shall evaluate, within one year after a user is designated as a SIU, whether the SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The director 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 director may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the director of any accidental or slug discharge, as required by section 47-192(f) of this article; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control 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.

Every user shall provide protection from accidental discharge into the POTW of prohibited materials. Such protection shall be provided and maintained at the user's cost and expense.

Users shall control the production of all discharges to the extent necessary to maintain compliance with all applicable regulations 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 to the treatment facility is reduced, lost, or fails.

Users shall provide records of the activities associated with slug control evaluation and results available to the director upon director's request.

(d) The director may require a user to install, at the user's expense, suitable monitoring facilities, instrumentation or equipment that allows for the representative sampling and accurate observation of wastewater discharges. At all times and at its own expense, the user shall maintain the sampling and monitoring equipment in a safe and proper operating condition and accessible to city personnel. The user shall ensure all devices used to measure wastewater flow and quality are calibrated at least annually to ensure their accuracy.

(e) 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. The monitoring facilities must be provided in accordance with the director's requirements and all applicable local construction standards and specifications whether constructed on public or

private property. The user shall construct and maintain monitoring facilities in such manner so as to enable the director to perform independent and unscheduled monitoring activities.

(f) *Multitenant buildings.* When more than one user is able to discharge into a common service line, the director may require installation of separate monitoring equipment for each user.

(g) *Flow, pH, lower explosive limit, and other appropriate meters and instrumentation.* If the director determines that an industrial user needs to measure and report: wastewater flow, discharge process wastewaters necessitating continuous pH measurement, or discharge wastewater that may contain flammable substances, the director may require the user, at the user's expense, to install and maintain approved meters, structures, and equipment.

(h) *Hauled wastewater.* Only domestic septic tank waste generated within the city may be introduced into the POTW and only at locations designated by the director, and at the times established by the director. Users must comply with section 47-188 of this article and any other requirements established by the city. The director may require waste haulers to obtain individual wastewater discharge permits or general permits.

Sec. 47-190. Individual wastewater discharge permits and general permits.

(a) *Wastewater analysis.* When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. This information shall include, but is not limited to, the items listed in section 47-190(e) of this article. The director is authorized to prepare a form for this purpose and may periodically require a user to update information on the nature and characteristics of the user's wastewater.

(b) *Individual wastewater discharge permit and general permit requirement.*

(1) A user meeting any of the following criteria shall not discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit or a general permit from the director:

a. SIUs;

b. Industrial users that discharge concentrations of BOD or TSS greater than those levels established for the imposition of the user surcharge under article III of this chapter; or

c. Industrial users that contribute or have the potential to contribute industrial waste having concentrations of pollutants that would interfere with or pass through the sewer system or contaminate the city's sewage sludge.

(2) The director may require a user who does not meet any of the criteria in subsection 47-190(b)(1) of this article to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes and objectives of this article.

(3) Any violation of the terms and conditions of an individual wastewater discharge permit or general permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in sections 47-196 through

47-198 of this article. Obtaining an individual wastewater discharge permit or general permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(c) *Individual wastewater discharge and general permitting—existing connections.* Any user required to obtain an individual wastewater discharge permit or general permit who was discharging wastewater into the POTW prior to _____⁴ and who wishes to continue such discharges, shall, within 45 days after _____⁵, apply to the director for an individual wastewater discharge permit or general permit in accordance with section 47-190(e) of this article, and shall not cause or allow discharges to the POTW to continue after 90 days after _____⁶ except in accordance with an individual wastewater discharge permit or general permit issued by the director. A user with an expiring industrial waste permit must apply for a new permit by submitting a complete permit application at least forty-five (45) days prior to the expiration of the user's existing permit. A user that has filed a complete and timely application may continue to discharge as approved in writing by the city through an administrative extension of the existing permit if the delay in permit issuance is not due to any act or failure to act on the user's part.

(d) *Individual wastewater discharge and general permitting—new connections.* Any user required to obtain an individual wastewater discharge permit or general permit who proposes to begin discharging into the POTW must obtain such permit, if the user does not have an applicable permit, prior to the beginning or recommencing of such discharge. An application for an individual wastewater discharge permit or general permit pursuant to section 47-190(e) of this article must be filed at least 90 days prior to the date upon which any discharge will begin. The user shall provide a tour of the facilities for department inspectors prior to commencing or recommencing discharge.

(e) *Individual wastewater discharge and general permit application contents.*

(1) All users required to obtain an individual wastewater discharge permit or general permit must submit a permit application. Users that are eligible may request a general permit under section 47-190(f) of this article. The director may require users to submit all or some of the following information as part of an individual or general permit application:

a. *Identifying information.*

1. The name and address of the facility, including the name of the operator and owner.
2. Contact information, types of products or services, description of activities, facilities, and plant production processes on the premises.

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- b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
- c. *Description of operations.*
 - 1. 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.
 - 2. A schematic process diagram, which indicates all process tanks, process lines, treatment systems, drains, and points of discharge to the POTW.
 - 3. 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.
 - 4. Number and type of employees, hours of operation, and proposed or actual hours of operation.
 - 5. Type and amount of raw materials processed (average and maximum per day).
 - 6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, sampling points, city sewer connections, pretreatment facilities, and appurtenances by size, location, and elevation, and all points of discharge.
- d. Time and duration of discharges including the date the user first began discharge or plans to discharge to the POTW.
- e. The location for monitoring all wastewater discharges from the user.
- f. *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 in accordance with subsection 47-188(b)(3) of this article and 40 C.F.R. § 403.6(e). For new sources and new permittees not currently discharging, an estimate of flows may be used for meeting the requirements of the BMR.
- g. *Measurement of pollutants.*
 - 1. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes.
 - 2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process.

3. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 4. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 47-192(k) of this article. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the director or the applicable standards to determine compliance with the standard.
 5. Sampling must be performed in accordance with procedures set out in section 47-192(l) of this article.
- h. Any request to be covered by a general permit based on section 47-190(f) of this article.
 - i. Any other information as may be deemed necessary by the director to evaluate the permit application.
- (2) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.
 - (3) The director shall charge and collect fees for each industrial waste permit or regulated entity if a permit is not required. Fees shall be as stated for this provision in the city fee schedule. Payment of any applicable fees when due is a condition of the processing of any application or authorization request under this article.
- (f) *Wastewater discharge permitting: general permits.*
- (1) At the discretion of the director, the director may use general permits to control user discharges to the POTW if the facilities to be covered by a general permit meet the following conditions:
 - a. Involve the same or substantially similar types of operations;
 - b. Discharge the same types of wastes;
 - c. Require the same effluent limitations;
 - d. Require the same or similar monitoring; and
 - e. In the opinion of the director, are more appropriately controlled under a general permit than under individual wastewater discharge permits.
 - (2) To be covered by the general permit, the user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, and any other information the director deems appropriate.
 - (3) The director will retain a copy of the general permit, documentation to support the director's determination that a specific user meets all the criteria in subsection 47-

190(f)(1) of this article and applicable state regulations, and a copy of the user's written request for coverage for three years after the expiration of the general permit.

- (4) The director may not control a 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 in accordance with subsection 47-188(b)(3) of this article and 40 C.F.R. § 403.6(e).
- (5) The director shall charge and collect fees for each industrial waste permit or regulated entity if a permit is not required. Fees shall be as stated for this provision in the city fee schedule. Payment of any applicable fees when due is a condition of the processing of any application under this article.
- (g) *Application signatories and certifications.*
 - (1) 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 47-192(o) of this article.
 - (2) If the designation of an authorized representative of the user 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, the user must submit a new written authorization satisfying the requirements of this section to the director prior to or together with any reports to be signed by the new authorized representative.

(h) *Individual wastewater discharge and general permit decisions.* The director will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete permit application from a new user, and within 45 days of receipt of a complete permit application from an existing user, the director will determine whether to issue an individual wastewater discharge permit or a general permit. The director may deny any application for an individual wastewater discharge permit or a general permit based on the following reasons:

A permit shall be denied if the applicant:

- (1) Cannot demonstrate compliance with sampling and operating standards of this article;
- (2) Fails to provide any requested information as provided in section 47-190(e) of this article;
- (3) Fails to provide and operate treatment and sampling facilities as provided in sections 47-189 and 47-193(1) of this article;
- (4) Fails to pay all fees or charges required by this chapter or other applicable fees,
- (5) Is an existing user and has had, during the term of its previously issued permit, recurring noncompliance with any provisions of this article or any other city ordinance pertaining to the sanitary sewer system;

- (6) Has not complied with all applicable building and plumbing codes; or
- (7) Cannot demonstrate to the satisfaction of the director that the facility has been designed or will be operated in a manner that will produce a discharge that is acceptable to the POTW.

If the permit is denied, the director shall notify the applicant of the denial and the basis for permit denial. Recurring non-compliance may result in an interim renewal that requires increased self-monitoring or other requirements deemed necessary to demonstrate compliance. A permit shall not be renewed to an applicant that has had its sanitary sewer service disconnected as the result of termination of utility service or to an applicant that is in arrears on its sewer bill.

(i) *Discharge flow meter.* A user shall be required to install and maintain a wastewater discharge meter if:

- (1) The user accepts material from off-site that causes or contributes a wastewater discharge to the sanitary sewer system, including material received on trucks, trains, ships, or via pipeline;
- (2) The user discharges wastewater to the sanitary sewer system that is from a source other than city-provided water and is not billed for city sewer usage, such as well water or storm water;
- (3) The user has a chemical or physical process that produces water that will be discharged to the sanitary sewer system;
- (4) The user is subject to flow- or mass-based pretreatment standards; or
- (5) The director determines that a wastewater discharge meter is required.

The discharge meter shall be purchased and installed by the user in accordance with the requirements of the department.

User shall establish a discharge meter billing account with the department for each discharge meter prior to the issuance of a new industrial waste permit or prior to starting any new process that will discharge unmetered wastewater to the sanitary sewer system.

User's failure to install a required discharge meter or establish a discharge meter billing account shall be grounds for the director to deny issuance of a new permit or revoke any existing permit.

Failure to maintain a required discharge meter in good working order, to calibrate the meter as required by the department, or to maintain an active discharge meter billing account will result in the revocation of the user's permit in accordance with section 47-191(f) of this article. Diverting wastewater to avoid measurement in a discharge meter will also result in the revocation of the user's permit or disconnection of water/wastewater service.

(j) *Additional guidelines.* The director is authorized to promulgate guidelines for administration of this article that are consistent with its requirements and applicable state and federal laws and regulations.

Sec. 47-191. Individual wastewater discharge and general permit issuance.

(a) *Individual wastewater discharge and general permit duration.* An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. An individual wastewater discharge permit or a general permit may be issued for a period less than five years, at the discretion of the director. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

(b) *Individual wastewater discharge permit and general permit contents.* An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Individual wastewater discharge permits and general permits must contain:

- a. the wastewater discharge permit issuance date, expiration date and effective date;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with section 47-191(e) of this article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits, including best management practices, based on applicable pretreatment standards;
- d. 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, including the site-specific circumstances and alternate sampling (when applicable);
- e. 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;
- f. Requirements to control and report slug discharge, if determined by the director to be necessary;
- g. Requirements to provide facility access for sampling and inspection purposes; and

- h. A statement of the user's responsibility to give advance notice to the director of any operational change that increases the volume or character of the user's wastewater discharge as represented in user's application for a permit or other authorization, including the addition of any hazardous waste.
- (2) Individual wastewater discharge permits and general permits may contain, but need not be limited to, the following conditions:
 - a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 - g. Notification requirements prior to the release of batch discharges into the sanitary sewer system;
 - h. A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and
 - i. Other conditions as deemed appropriate by the director to ensure compliance with this article, and state and federal laws, rules, and regulations.
- (c) *Permit issuance process.*
- (1) *Public notification.* If determined to be necessary, the director will publish in an official government publication and/or newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, or on a web page, a notice to issue a pretreatment permit, at least 30 days prior to issuance. The notice will indicate a location where the draft permit may be

reviewed and an address where comments may be submitted by electronic and/or written communication.

- (2) *Permit appeals.* Any person, including the user, may petition the director to reconsider the terms of an individual wastewater discharge permit or a general permit within 15 days of notice of its issuance.
 - a. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - b. In its petition, the appealing party must indicate the individual wastewater discharge permit or general permit 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 general permit.
 - c. The effectiveness of the individual wastewater discharge permit or general permit shall not be stayed pending the appeal.
 - d. If the director fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit or general permit, not to issue an individual wastewater discharge permit or general permit, or not to modify an individual wastewater discharge permit or general permit shall be considered final administrative actions.

- (d) *Permit modification.*
 - (1) The director may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - b. 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;
 - c. To address a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - d. To address information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, sludge use or disposal, or the receiving waters;
 - e. User's violation of any terms or conditions of the individual wastewater discharge permit;
 - f. To address user's misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

- g. To address a revision to a variance previously approved by the director or a request to the director for a new variance from categorical pretreatment standards pursuant to 40 C.F.R. § 403.13;
 - h. To prevent interference or pass through, contamination of sewage sludge, or violation by the city of laws or regulations enacted by the state or federal government;
 - i. To correct, abate, or prevent a recurrence of a violation of a term or condition of a permit;
 - j. To incorporate revised conditions, standards, or requirements as consistent with the purposes and objectives of this article;
 - k. To correct typographical or other errors in the individual wastewater discharge permit; or
 - l. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 47-191(e) of this article.
- (2) The director may modify a general permit for good cause, including, but not limited to, the following reasons:
- a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - b. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - c. To correct typographical or other errors in the individual wastewater discharge permit; or
 - d. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 47-191(e) of this article.

(e) *Individual wastewater discharge permit and general permit transfer.* Individual wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the director and the director approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the director must include a written certification by the new owner or operator that:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit.

User's failure to provide advance notice of a transfer renders the individual wastewater discharge permit or coverage under the general permit void as of the date of facility transfer.

(f) *Individual wastewater discharge permit and general permit revocation.* The director may revoke an individual wastewater discharge permit or coverage under a general permit for good cause, including, but not limited to, the following reasons that are based on a user's or permittee's failure of performance as identified below:

- (1) Failure to notify the director of any operational change that increases the volume or character of the user's wastewater discharge as represented in user's application for a permit or other authorization, including the addition of any hazardous waste;
- (2) Failure to provide prior notification to the director of changed conditions pursuant to section 47-192(e) of this article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Submission of false information on self-monitoring reports and certification statements;
- (5) Tampering with monitoring equipment;
- (6) Refusal to allow the director timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines or fees;
- (9) Failure to meet compliance schedules;
- (10) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (11) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the general permit or this article;
- (13) Failure to accurately disclose or report the wastewater constituents and characteristics of any discharge; or
- (14) Denial of timely access to the user's premises for the purpose of inspection or sampling.

Individual wastewater discharge permits or coverage under general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits, or general permits issued to a user, are void upon the issuance of a new individual wastewater discharge permit or a general permit to that user.

(g) *Individual wastewater discharge permit and general permit reissuance.* A user with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with section 47-190(e) of this article, a minimum of 45 days prior to the expiration of the user's existing individual wastewater discharge permit or general permit.

(h) *Regulation of waste received from other jurisdictions.*

(1) Prior to accepting wastewater from a contributing municipality, the director shall execute an intermunicipal agreement between the City and the contributing municipality that seeks to contribute wastewater to the POTW.

(2) Prior to entering into an agreement required by item (1) above, the director may request the following information from the contributing municipality:

- a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- b. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- c. Such other information as the director may deem necessary.

(3) An intermunicipal agreement, as required by item (1) above, shall contain the following conditions if industrial waste may be discharged in the service area of the contributing jurisdiction:

- a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits, including required BMPs which are at least as stringent as those set out in section 47-188(d) of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this article or local limits;
- b. A requirement for the contributing municipality to submit to the director a revised user inventory on at least an annual basis;
- c. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit or general permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the director; and which of these activities will be conducted jointly by the contributing municipality and the director;
- d. A requirement for the contributing municipality to provide the director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

- f. Requirements for monitoring the contributing municipality's discharge;
- g. A provision ensuring the director access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director; and
- h. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

Sec. 47-192. Reporting requirements.

- (a) *Baseline monitoring reports (BMR).*
 - (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, existing categorical industrial users discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in subsection 47-192(a)(2) of this subsection. At least 90 days prior to commencement of discharge, new sources, and existing sources that become categorical industrial users after the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection 47-192(a)(2)a, b and e, below. A new source shall report the method of pretreatment it proposes to use in order to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
 - (2) Users described in 47-192(a)(1) shall submit the information set forth below to the director.
 - a. All information required in subsections 47-190(e)(1)a1, 47-190(e)(1)b, 47-190(e)(1)c1, and 47-190(e)(1)f of this article.
 - b. *Measurement of pollutants.*
 - 1. The user shall provide the information required in subsections 47-190(e)(1)g of this article to the director.
 - 2. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this item (2).
 - 3. User shall collect samples immediately downstream from pretreatment facilities if they exist or immediately downstream from the regulated process if no pretreatment facility exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user is required to measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 C.F.R. § 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. §

403.6(e), the user shall submit this adjusted limit along with supporting data shall to the director.

4. Sampling and analysis shall be performed in accordance with sections 47-192(k) and (l) of this article.
5. The director may allow the submission of a BMR which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
6. The BMR shall indicate the time, date and place of sampling and methods of analysis, and shall contain a certification indicating that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

- c. *Compliance certification.* User shall submit a statement, reviewed by the user, or user's authorized representative, and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- d. *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 47-192(b) of this article.
- e. *Signature and report certification.* All BMRs must be certified in accordance with section 47-192(o) of this article and signed by user or an authorized representative.

(b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection 47-192(a)(2)d of this article:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No progress increment referred to in subsection 47-192(b)(1) above shall exceed nine months;
- (3) The user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including, at a minimum, whether or not the user 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

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

(c) *Reports on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing, the information described in subsections 47-190(e)(1)f, 47-190(e)(1)g, 47-192(a)(2)b, and 47-192(a)(2)c of this article. For a user subject to equivalent mass or concentration limits established in accordance with the procedures in section 47-188(b) of this article, 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 47-192(o) of this article, and all sampling will be done in conformance with section 47-192(l) of this article.

- (d) *Periodic compliance reports.*

- (1) All SIUs or other users required by the director must, at a frequency determined by the director, submit no less than twice per year 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 BMP or pollution prevention alternative, the user must submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user.

- (2) All periodic compliance reports must be signed and certified in accordance with section 47-192(o) of this article.

- (3) 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 maintain its monitoring facility shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (4) 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 director, using the procedures prescribed in sections 47-192(k) and (l) of this article, the results of the monitoring shall be included in the report.

- (5) Users that send electronic (digital) documents to the city to satisfy the requirements of this section must meet the requirements of section 47-203 of this article.

(e) *Reports of changed conditions.* Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its

wastewater at least 14 days before the change. A significant change shall be equal to or greater than 20 percent in the mass or concentration of a pollutant or volume of flow discharged to the POTW.

- (1) The notification shall include changes relating to:
 - a. The addition or removal of processing, manufacturing, or other production operations,
 - b. New pollutants which may be discharged, and
 - c. Changes in the listed or characteristic hazardous waste for which the user has submitted or is required to submit information to the city under this article.
- (2) The director may require the user to submit information that the director deems necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 47-190(e) of this article.
- (3) The director may issue an individual wastewater discharge permit or a general permit under section 47-191(g) of this article or modify an existing wastewater discharge permit or a general permit under section 47-191(d) of this article in response to changed conditions or anticipated changed conditions.
- (f) *Reports of potential problems.*
 - (1) 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 call and email the director to provide notice 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.
 - (2) Within five days following such discharge, the user shall, unless waived by the director, 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 article. Failure to report slug discharges may, in addition to any other remedies available to the utility official, result in the disconnection of utility service.
 - (3) Users shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure of this section.
 - (4) SIUs are required to notify the director immediately of any changes at its facility that affect the potential for a slug discharge.

(g) *Dental discharger compliance reports.* Within three years and 90 days after the effective date of the applicable categorical pretreatment standard, existing dental dischargers that are discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information as required at 40 C.F.R. § 441.50. At least 90 days after commencement of their discharge, new sources, and existing sources that become dental dischargers subsequent to the promulgation of the applicable categorical standard, shall submit to the director a report which contains the information as required at 40 C.F.R. § 441.50. If the dental discharger transfers ownership of the facility, the new owner must submit a new one-time compliance report no later than 90 days after the transfer. The director may require the submittal of additional information or more frequent reports to assess and assure compliance with 40 C.F.R. Part 441.

(h) *Other reports.* All users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the director as the director may require.

(i) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user shall notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. Resampling by the 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's facility between the time 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 user.

If the city performed the sampling and analysis in lieu of the 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.

(j) *Notification of the discharge of hazardous waste.*

(1) Any user who commences the discharge of hazardous waste shall notify the director pursuant to the notification procedures within the permit, 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 C.F.R. Part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications shall take place no later than 180 days after the discharge commences. Any notification under this item (1) need be submitted only once for each hazardous waste discharged. The user shall submit notifications of changed conditions under or pursuant to section 47-192(e) of this article. The notification requirement in this section does not apply to any pollutant already

reported by a user subject to categorical pretreatment standards under the self-monitoring requirements of sections 47-192(a), (c) and (d) of this article.

- (2) Dischargers are exempt from the requirements of item (1) above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. § 261.30(d) and 261.33(e). Users shall submit to the director a one-time notification of a discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. § 261.30(d) and 261.33(e). A user is not required to make additional notifications in subsequent months during which the user discharges more than previously identified quantities of any hazardous waste.
- (3) 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 director, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (4) 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.
- (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law. This provision does not waive any other notification that may apply to discharges subject to other provisions of this article.

(k) *Analytical requirements.* User shall perform all pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report in accordance with the techniques prescribed in 40 C.F.R. Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. 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 director or other parties approved by the EPA.

(l) *Sample collection.* Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. The director will prescribe a sampling protocol that produces representative results and takes into consideration all of the operation conditions and the physical configuration of the IU facility.

- (1) Except as indicated in items 2 and 3 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 director. Where time-proportional composite sampling or grab sampling is authorized by the director, the samples must be representative of the discharge

and collected during the portion of the 24-hour period that the IU is discharging from the regulated process(es) and or pretreatment unit. Using protocols (including appropriate preservation) specified in 40 C.F.R. 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, the samples may be composited in the laboratory. Composite samples for parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the director, as appropriate. In addition, the director may require grab samples to demonstrate compliance with instantaneous limits.

- (2) Samples for oil and grease, total residual chlorine, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Samples for total residual chlorine, pH, and temperature cannot be composited under any circumstances.
- (3) For sampling required in support of baseline monitoring and 90-day compliance reports required in sections 47-192(a) and 47-192(c) of this article, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. Where there has been a change to existing IUs, for example, the addition of treatment, historic data that does not represent the current discharge may not be used to justify a lower minimum number of grab samples. For the reports required by section 47-192(d) of this article, the user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(m) *Date of receipt of reports.* Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, the date of receipt of the report shall govern. If the user's industrial waste permit authorizes electronic reporting, the date of receipt shall be as established in the electronic reporting provision of the permit.

(n) *Recordkeeping.* Users subject to the reporting requirements of this article shall retain, and make available to the director for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article, 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 subsection 47-188(d)(3) of this article. Records shall include the date, exact place, method, and time of sampling, and the name of the person 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 years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

Dental dischargers must maintain the one-time compliance report required by section 47-192(g) of this article and make it available for inspection by the director in either physical or electronic form as long as the dental discharger is in operation or until ownership is transferred.

Dental dischargers must maintain on site and make available for inspection (in either physical or electronic form) for a period of three years:

- (1) Documentation of the date, person conducting the inspection, and results of each inspection of the amalgam separator or equivalent device and a summary of follow-up actions, if needed, as specified in 40 C.F.R. § 441.30 or 40 C.F.R. § 441.40, including records of visual inspections of the amalgam separator to ensure that the device is not in bypass mode;
- (2) Documentation of amalgam retaining container or equivalent container replacement including the date;
- (3) Documentation of all dates that collected dental amalgam is picked up or shipped for proper disposal in accordance with 40 C.F.R. § 261.5(g)(3), and the name of the permitted or licensed treatment, storage, or disposal facility receiving the amalgam retaining containers;
- (4) Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person making the repair or replacement, and a description of the repair or replacement (including make and model); and
- (5) The manufacturer's operating manual for the amalgam separator or equivalent device.

The city shall maintain records of all information resulting from any monitoring activities required by this article, including documentation associated with BMPs. These records shall be available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city.

(o) *Certification statements — certification of permit applications and user reports.* The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with section 47-190(g) of this article; users submitting baseline monitoring reports under subsection 47-192(a)(2)e of this article; users submitting reports on compliance with the categorical pretreatment standard deadlines under section 47-192(c) of this article; users submitting periodic compliance reports required by section 47-192(d) of this article; and dental dischargers submitting compliance reports required by section 47-192(g) of this article. The following certification statement must be signed by the user or an authorized representative of the user:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person 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.

Sec. 47-193. Compliance monitoring.

The director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the director 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.

(1) *Right of entry: inspection and sampling.*

- a. Whenever it is necessary for the purposes and objectives of this article, the director may enter upon any user's facility, property, or premises subject to this article for the purpose of:
 1. Performing all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by users, compliance or noncompliance with applicable pretreatment standards and requirements by a user. Compliance monitoring and inspection shall be conducted at a frequency as determined by the director and may be announced or unannounced;
 2. Examining and copying any records required to be kept under the provisions of this article or of any other local, state or federal regulation;
 3. Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
 4. Sampling any discharge of wastewater into POTW; and/or
 5. Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this article, could originate, be stored, or be discharged to the POTW.
- b. The occupant of such property or premises shall render all proper assistance in such activities. Where a user has security measures 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 director shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- c. The director shall have the right to set up on the user's property, or require installation of, devices necessary to conduct sampling and/or metering of the user's operations. The director may require the user to provide multiple sampling facilities at the end of each industrial process and at a final, end-of-pipe, combined flow location to determine compliance with the user's permit and this article.
- d. The city may use a camera to photograph or video record any areas of the facility as deemed necessary for carrying out the duties of the pretreatment

program including, but not limited to, documentation of the user's compliance status and for reinforcement of required written reports. The user shall be allowed to review copies of photographs for confidentiality claims.

- e. 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 director and shall not be replaced. The costs of clearing such access shall be borne by the user.
 - f. Failure to allow entry or unreasonable delays in allowing the director access to the user's premises shall be a violation of this article. Any delay exceeding 10 minutes shall be considered unreasonable. Obstructions to the safe and easy access to any portion of the facility including sampling locations shall be a violation of this article and warrant revocation of the user's permit.
 - g. The director shall assess the strength and concentration of the waste discharged to the sanitary sewer system unless an alternate sampling method or criteria is required by a permit, permit application, enforcement action, or other directive of the director. Tests made on representative samples collected by the director shall be made at such intervals as the director may designate.
 - h. For evaluating compliance with any pretreatment standard or requirement, the director may use any sampling location from which samples will either directly or indirectly represent a user's discharge. If a sampling location includes dilution, such as domestic wastewater, infiltration, inflow, or storm water, and if samples at this location violate an applicable limit, then the director may conclude that process wastewater discharged at an upstream location was the cause of the violation. The director may use sample collection techniques or analytical methods that bias sample results low as a basis for enforcement action, such as composite samples for pollutants for which grab samples are normally used. The director may use sampling locations, sample collection techniques, or analytical methods other than those established in an industrial waste permit for compliance determination. In particular, the director may perform monitoring at the control manhole to determine compliance with local discharge limits.
- (2) *Search warrants.* If the director 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 article, 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 article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from a magistrate through the Environmental Crimes Division of the Harris County District Attorney's Office.

In the event the city has reason to believe a situation represents an imminent threat to public health and safety or the environment, and where entry has been denied or the area is inaccessible, an agent of the city may enter in the company of a

uniformed peace officer, before a requested warrant has been produced, in order to determine if the suspected situation exists, and if so, to take such actions necessary to protect the public.

Sec. 47-194. Publication of users in significant noncompliance (SNC).

The director shall publish annually, in a newspaper that provides meaningful public notice within the jurisdictions served by the city, a list of the users which, at any time during the previous 12 months, were in SNC with applicable pretreatment standards and requirements. A SIU (or any user which violates items (3), (4), or (8) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter taken during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 47-188 of this article;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by section 47-188 of this article multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH, TRC criteria do not apply to pH);
- (3) Any other violation of a pretreatment standard or requirement as defined by section 47-188 of this article (daily maximum, long-term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the director's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or

- (8) Any other violation(s), which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 47-195. Administrative enforcement remedies.

(a) *Notification of violation.* When the director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within the timeframe specified in such notice, an explanation of the cause 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 director. 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. Failure to comply with a notice of violation will result in escalated enforcement, including but not limited to termination of utility service in accordance with the remedies provided in this article. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) *Consent/agreed orders.* The director 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 47-196 (d) and (e) of this article and shall be judicially enforceable.

(c) *Show cause hearing.* The director may order a user who has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why a termination of water/wastewater service notice should not be issued. Notice shall be served on the user specifying the time and place for the meeting, the reasons for such action, and a request that the user show cause why a termination of water/wastewater service notice should not be issued. Such notice may be served on any authorized representative of the user or designated facility contact person. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(d) *Administrative compliance orders.* When the director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director 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 the installation of pretreatment facilities and additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sanitary sewer system. 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. Failure to comply with any terms or

requirements of a compliance order by the user shall be a basis for termination of wastewater services.

(e) *Cease and desist orders.* When the director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

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

(f) *Administrative fines.*

- (1) When the director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed \$2,000 including the costs of preparing administrative enforcement actions, such as notices and orders. Such fines shall be assessed on a per-violation, per-day basis. Each day of violation shall constitute a separate offense. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (2) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of five percent per month. Disconnection of water and/or wastewater service may result if the city does not receive full payment of the fines and penalties within 90 calendar days of the due date.
- (3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(g) *Emergency suspensions.* The director may immediately suspend a user's discharge, after informal (e.g., verbal) notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause a potential imminent or substantial endangerment to the health or welfare of persons, the environment, or the POTW.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director 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 director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of

endangerment has passed unless the termination proceedings in sections 47-196(h) of this article are initiated against the user.

- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date of any show cause or termination hearing under section 47-196(c) or 47-196(h) of this article.

Nothing in subsection (g) of this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(h) *Termination of discharge.* In addition to the provisions in section 47-191(f) of this article, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of any individual wastewater discharge permit or general permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal to provide the director with reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling in accordance with subsections 47-191(b)(1)g and 47-191(f)(6); or
- (5) Violation of the pretreatment standards in section 47-188 of this article.

The director shall notify a user of the proposed termination of its discharge. A user who is subject to a termination order shall be offered an opportunity to appeal the termination notice. An appeal request shall be received by the industrial wastewater service within 10 calendar days of the termination notice. Exercise of discharge termination by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

(i) *Compliance conference.* When the director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice to attend a compliance conference. At the date and time specified in such notice, the user shall appear at the offices of the industrial wastewater service to discuss the cause of the noncompliance and corrective actions. Failure to attend a compliance conference may result in escalated enforcement, including but not limited to termination of utility service in accordance with the remedies provided in this article. Issuance of a compliance conference notice shall not be a bar against, or a prerequisite for, taking any other action against the user.

Sec. 47-196. Judicial enforcement remedies.

(a) *Injunctive relief.* When the director finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit

or order issued hereunder, or any other pretreatment standard or requirement, the director may request that the city attorney file a civil suit in a court of competent jurisdiction to enjoin, temporarily or permanently, as appropriate, the violation of any of the provisions of this article, the individual wastewater discharge permit, the general permit, the order, or other requirement imposed by this article on activities of the user. The director 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.

(b) *Civil penalties.*

- (1) A user who has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2,000 per violation. Each day that said violation shall continue shall constitute a separate offense. 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.
- (2) The city may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, the cost of any actual damages incurred by the city, or any other costs incurred by the city in association with the enforcement activities.
- (3) In determining the amount of civil liability, the a judge or jury 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.
- (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

- (1) A user who knowingly or criminally violates any provision of this article, an individual wastewater discharge permit, or a general permit 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 less than \$300, nor more than \$2,000 per violation. Each day that said violation shall continue shall constitute a separate offense.
- (2) A user who knowingly or criminally 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 not more than \$2,000. Each day that said violation shall continue shall constitute a separate offense. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- (3) 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 article, individual wastewater discharge permit, or general permit or order issued hereunder, shall, upon conviction, be punished by a fine of not less than \$500, nor more than \$2,000 per violation. Each day that said violation shall continue shall constitute a separate offense.

- (4) A user who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not less than \$500, nor more than \$2,000 per violation. Each day that said violation shall continue shall constitute a separate offense.
- (5) In the event of a second conviction, a user shall be punished by a fine of not more than \$2,000 per violation. Each day that said violation shall continue shall constitute a separate offense.

(d) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will be in accordance with the city's enforcement response plan. However, the director may take a more stringent action against any user when the circumstances warrant.

Sec. 47-197. Supplemental enforcement action.

(a) *Performance bonds.* The director may decline to issue or reissue an individual wastewater discharge permit or a general permit to any user who has failed to comply with any provision of this article, a previous individual wastewater discharge permit, or a previous general permit 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 director to be necessary to achieve consistent compliance.

(b) *Liability insurance.* The director may decline to issue or reissue an individual wastewater discharge or a general permit to any user who has failed to comply with any provision of this article, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained and provided financial assurances acceptable to the director, such as liability insurance, for the restoration or repair of damage to the POTW caused by the user's discharge.

(c) *Payment of outstanding fees and penalties.* The director may decline to issue or reissue an individual wastewater discharge permit or a general permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this article, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder.

(d) *Water supply severance.* Whenever a user has violated or continues to violate any provision of this article, an individual wastewater discharge permit, a general permit, 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 to the director its ability to comply.

(e) *Public nuisances.* A violation of any provision of this article, an individual wastewater discharge permit, a general permit, 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 director. Any person creating a public nuisance shall be subject to the provisions of the chapter 10 of this article governing such nuisances, including, but not limited to, reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

Sec. 47-198. Affirmative defenses to discharge violations.

- (a) *Act of God defense.*
 - (1) The Act of God defense constitutes a statutory affirmative defense [Texas Water Code § 7.251] in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.
 - (2) A user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
 - a. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot, or another catastrophe; and
 - b. The user has submitted the following information to the POTW and the city within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five days):
 - 1. A description of the event, and the nature and cause of the event;
 - 2. The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
 - 3. Steps being taken or planned to reduce, eliminate and prevent recurrence of the event.
 - (3) *Burden of proof.* In any enforcement proceeding, the user seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

(b) *Bypass.*

(1) *Definitions.* For the purposes of this section:

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

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

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation. The user seeking to establish that the discharge does not violate pretreatment standards and requirements shall have the burden of proof. These bypasses are not subject to the provisions of item (4) of this subsection.

(3) *Bypass Notifications.*

a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least 10 days before the date of the bypass, if possible.

b. A user shall submit verbal notice to the director of an unanticipated bypass within 24 hours from the time it becomes aware of the bypass. User shall submit a written notice within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the verbal report has been received within 24 hours.

(4) *Bypass.*

a. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless the user can demonstrate that

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. 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

3. The user submitted notices as required under item (3) of this subsection.
- b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in item (4)a of this subsection.

Sec. 47-199. Wastewater treatment rates.

User charges for sanitary sewer service shall be calculated and applied in accordance with the provisions of article III of this chapter, as amended.

- (1) The director, without prior notice, may take samples and perform tests, and the results of the tests shall be used to calculate the applicable user charge established in article III of this chapter. Provided, however, a user may request in writing permission to conduct self-monitoring through an independent laboratory to be used in combination with the city's sample results to determine the user charge. The director may grant such a request and accept the results of the user's self-monitoring if the user provides documentation in the format required by the director showing that proper chain of custody was followed, and that sampling and analysis were conducted in accordance with item (2) of this section. All costs of such sampling and analyses for self-monitoring shall be borne by the user. Approval of sampling and analysis performed by an independent laboratory does not restrict the director from collecting additional samples without prior notice to the user. Submission of any self-monitoring analyses that are not representative of the process wastewater discharge shall be the basis for termination of utility service.
- (2) Sampling and analysis shall be conducted in accordance with the requirements of 40 C.F.R. Part 136, as amended.
- (3) The director may make periodic tests of waste being discharged into the city sewer from the premises of a user under the provisions of this section.
- (4) The director may develop other unit charges and calculate a surcharge for wastewater using flow rates and strengths or concentrations for other pollutants discharged to recover wastewater treatment and other applicable costs as deemed necessary and appropriate.

Sec. 47-200. Quantity determination.

Except as may otherwise be provided in article III of this chapter, the quantity of waste delivered to the sanitary sewer system will be presumed to be substantially the same as the quantity of water delivered to the user or user's facility by the city water system.

Sec. 47-201. Miscellaneous provisions.

(a) *Pretreatment charges and fees.* The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program, which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals;
- (5) Fees to recover administrative and legal costs associated with the enforcement activity taken by the director to address IU noncompliance; and
- (6) 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 article and are separate from all other fees, fines, and penalties chargeable by the city.

(b) *Indemnification.* Each user shall indemnify and hold harmless the city from any liability, claims of loss of business, property damage to city facilities, extra costs for wastewater treatment, and civil, criminal, or administrative penalties due to or caused by a discharge of wastewater in violation of this article. The city attorney or his designee shall prescribe the form of the indemnity agreement to be included in the permit application.

(c) *Compliance with Construction Code.* Any person who proposes to construct, effect, maintain, modify or use a sewer system extension or connection must do so in accordance with all applicable construction codes including building permits and the purchase of water and wastewater capacity.

Sec. 47-202. Electronic reporting.

Users that send electronic documents to the director to satisfy the requirements of this article must certify and submit each report in compliance with:

- (1) An electronic signature agreement (as defined in 40 C.F.R. § 3.3 as amended) on file with the director; and
- (2) All other procedures and requirements of an electronic document receiving system authorized to accept such records in accordance with 40 C.F.R. Part 3.