

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY SEWER USE AND WASTEWATER CONTROL ORDINANCE

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3-1 GENERAL PROVISIONS

3-1-1 SHORT TITLE.

This Ordinance shall be known and may be cited as the “Sewer Use and Wastewater Control Ordinance.”

3-1-2 PURPOSE AND POLICY.

A. This Ordinance sets forth uniform requirements for and applies to all users of the Publicly Owned Treatment Work (POTW).

B. The purpose of this Ordinance is to enable the Water Authority to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. §1251 et seq.) and the General Pretreatment Regulations (Title 40 CFR Section 403); the requirements and conditions of the NPDES permit; and to protect the POTW and the public health and safety.

C. The objectives of this Ordinance are to:

1. Prevent the introduction of pollutants into the POTW that will interfere with its normal operation, damage the POTW, or contaminate the resulting sludge;

2. Prevent the introduction of pollutants into the POTW that will not be adequately treated and will pass through into the receiving waters or otherwise be incompatible with normal operations;

3. Protect the safety and health of both general public and the Water Authority’s personnel who may be affected by wastewater and sludge in the course of their employment;

4. Promote the opportunity for reuse, recycling, and reclamation of wastewater and sludge from the POTW; and

5. Provide for the equitable distribution of the cost of operation, maintenance, and improvement of the Water Authority’s approved pretreatment program.

D. This Ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative and judicial review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs incurred to operate the Water Authority’s pretreatment program.

3-1-3 ABBREVIATIONS.

BOD	Biochemical Oxygen Demand
BMP	Best Management Practice
°C	Degrees Centigrade or Celsius
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
ESSC	Extra Strength Surcharge
EPA	U.S. Environmental Protection Agency
°F	Degrees Fahrenheit
FOGS	Fats, Oils, Grease, and Solids
FSE	Food Service Establishment
gpd	gallons per day
GI	Grease Interceptor
mg/l	milligrams per liter
NH ₃ N	Ammonia Nitrogen
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
TPH	Total Petroleum Hydrocarbons
TSS	Total Suspended Solids
USC	United States Code

3-1-4 DEFINITIONS.

As used in the Sewer Use and Wastewater Control Ordinance:

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

AMMONIA NITROGEN (NH₃N). Total Ammonia – A measure of the total ammonia as nitrogen concentration as milligrams per liter (mg/L) by Standard Methods or EPA approved procedures.

AUTHORIZED REPRESENTATIVE.

A. If the user is a corporation:

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

2. The manager of one or more manufacturing, production, or operating facilities named in the user's application for a wastewater discharge permit.

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

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

D. The user may designate a person or position that is not described in Subparagraphs A through C of this paragraph as an authorized representative if the individual or position is responsible for the overall operation of the facility from which the discharge originates or has overall responsibility for environmental matters for the user, and a written designation is submitted to the Water Authority.

BASELINE MONITORING REPORT (BMR). A report submitted by a user to the Industrial Pretreatment Engineer pursuant to §§3-2-5 or 3-6-1 or other provisions of this Ordinance containing information relating to the nature and concentration of pollutants and flow characteristics of the discharge from the user to the POTW using standard laboratory and sample collection methods approved by the Industrial Pretreatment Engineer.

BEST MANAGEMENT PRACTICES (BMP). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the discharge prohibitions provided by this Ordinance, a wastewater discharge permit, or order issued by the Industrial Pretreatment Engineer, or any other pretreatment standard or pretreatment requirement. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage for raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of, certain established categorical pretreatment standards and effluent limits.

BIOCHEMICAL OXYGEN DEMAND (BOD or CBOD). The quantity of oxygen utilized in the biochemical oxidation of carbonaceous (organic) matter under standard laboratory procedures for five (5) days at 20°C, usually expressed as a concentration (e.g., mg/l).

BYPASS. The diversion of waste streams or wastewaters from any portion of a user's wastewater treatment equipment or pretreatment facility.

CATEGORICAL INDUSTRIAL USER. An Industrial User subject to a categorical pretreatment standard.

CATEGORICAL PRETREATMENT STANDARD. Pollutant discharge limits contained in any regulation promulgated by EPA in accordance with §§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 CFR Chapter I, Subchapter N, Sections 405-471.

CHEMICAL OXYGEN DEMAND (COD). A measure of the oxygen-consuming capacity of, both organic and inorganic matter present in wastewater as milligrams per liter (mg/L) by Standard Methods procedures.

COMMERCIAL. Retail, offices, hotels, motels, shopping centers, none of which use process water in the conduct of business.

COMPOSITE SAMPLE. A sample that is collected over time and formed by continuous sampling or by mixing of discrete sampling aliquots. Composites formed by mixing discrete sampling aliquots shall be collected on a time proportional or flow proportional basis.

DAILY DISCHARGE. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day. The time period may be less than 24 hours to correspond with actual hours of operation.

DAILY MAXIMUM LIMIT. The maximum allowable discharge limit of a pollutant during a calendar day.

DILUTION. The additional use of potable water for the purpose of reducing the concentration of pollutants in the wastewater before discharging to the POTW. The normal use of potable water for sanitary facilities and food preparation shall not be considered dilution.

DISCHARGE. Any disposal, injection, dumping, spilling, pumping, emitting, emptying, leaching, leaking, or placing of any material so that such material enters the POTW.

DOMESTIC WASTEWATER. Effluent which contains constituents and characteristics similar to effluent from a residence and specifically for the purposes of this Ordinance does not exceed any of the following concentrations:

COD = 500mg/l.

BOD = 250 mg/l.

TSS = 330 mg/l.

NH₃N = 25 mg/l.

ENFORCEMENT RESPONSE PLAN (ERP). A plan that establishes an equitable and consistent system of escalating enforcement responses to all identified instances of noncompliance with this Ordinance, a wastewater discharge permit, industrial pretreatment program policy or best management practices.

ENVIRONMENTAL PROTECTION AGENCY (EPA). The U.S. Environmental Protection Agency and, where appropriate, the Region VI Water Management Division Director, the Region VI Administrator, or other duly authorized official of the agency.

EXECUTIVE DIRECTOR. The Executive Director of the Albuquerque Bernalillo County Water Utility Authority or his or her designated representative.

EXISTING SOURCE. Any source of discharge that is not a new source.

EXTRA-STRENGTH SURCHARGE (ESSC). All Customers discharging wastewater into the POTW are subject to a surcharge if the discharged wastewater exceeds normal domestic wastewater strength. Refer to Extra Strength Surcharges in Sewer Rates section of the Rate Ordinance for ESSC rates.

FATS, OILS, AND GREASE (FOG). Those components of wastewater measured by methods approved by 40 CFR 136, including polar fats, oils, grease, and other

components extracted from wastewater by those methods, and excluding the non-polar fraction.

FOOD SERVICE ESTABLISHMENT (FSE). Any establishment, commercial or noncommercial, such as a restaurant, cafeteria, snack bar, temple, mosque, church, synagogue, worship hall, banquet facility, preschool, school, or meeting place, with a kitchen that is used for preparing, serving, or otherwise making available for consumption foodstuffs in commercial amounts in or on a receptacle that requires washing and that discharges to the POTW.

GARBAGE. Solid wastes from the commercial preparation, cooking, and dispensing of food, and from the handling, storing, and sale of produce.

GRAB SAMPLE. A sample that is taken from a wastestream representing the conditions at the moment without regard to the flow wastestream and over a period of time not to exceed fifteen (15) minutes.

GRAVITY GREASE INTERCEPTORS (GGI). A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept non-petroleum fats, oils and greases (FOG) from a wastewater discharge and is identified by volume, thirty (30) minute retention time, baffle(s), a minimum of two (2) compartments, a minimum total volume of 300 gallons and gravity separation.

GREASE INTERCEPTOR (GI). A pretreatment device designed for, and intended for, separating, collecting, and removing waterborne Fats, Oils, and Grease and settleable solids prior to discharging to the POTW. Also known as an Interceptor, Clarifier, Separator, Grease Trap, Oil Water Separator, Solids Separator/Interceptor, Grease Removal System/Device.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

HYDROMECHANICAL GREASE INTERCEPTORS (HGI) - A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept non-petroleum fats, oils and greases (FOG) from a wastewater discharge and is identified by flow rate, and separation and retention efficiency. The design incorporates air

entrainment, hydromechanical separation, interior baffling, and/or barriers in combination or separately, and one of the following:

- A. External flow control, with air intake (vent): directly connected.
- B. External flow control, without air intake (vent): directly connected.
- C. Without external flow control, directly connected.
- D. Without external flow control, indirectly connected.

INDIRECT DISCHARGE. The introduction of pollutants into the POTW from any nondomestic source.

INDUSTRIAL PRETREATMENT ENGINEER. The person designated by the Executive Director to supervise the operation of the approved Industrial Pretreatment Program and the implementation and enforcement of this Ordinance. The term Industrial Pretreatment Engineer also refers to any other persons designated by the Executive Director to assist the Industrial Pretreatment Engineer implement and enforce this Ordinance.

INDUSTRIAL PRETREATMENT PROGRAM (IPP). Required by EPA regulations (40 CFR 403) as part of the NPDES permit for the SWRP to:

- A. Protect the receiving water, the Rio Grande
- B. Protect the biosolids which are composted at the Soil Amendment Facility
- C. Protect the sewer collection system
- D. Protect SWRP workers including those who work on the collection system
- E. Prevent pass-through or interference with the wastewater treatment process

INDUSTRIAL USER. Manufacturing, or process facility which is engaged in producing a product.

INDUSTRIAL WASTE. Waste resulting from any process of industry, manufacturing, trade, or business, or from the development, recovery, or processing of natural resources.

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, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes and is a cause of a violation of the NPDES permit or prevents the use or disposal of sewage sludge in compliance with any of the following statutory or regulatory provisions or permits issued thereunder, or any more stringent state or local regulation: Section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); and 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.

INTERIM SAMPLING/MONITORING. Verification sampling that is conducted while an Industrial User is non-compliant, in the interim, until they are returned to compliance. An interim sample will typically be collected within thirty (30) days after the initial violation is detected to verify if the violation is an acute or chronic problem. This monitoring is a requirement of the 40 CFR and Enforcement Response Plan and is typically conducted monthly but can be increased at the Industrial Pretreatment Engineers discretion, based on the Industrial User progress towards compliance.

LATERAL SEWER. An individual user's sewer pipe beginning at the POTW and extending to the premises served. The lateral sewer includes the stub to which a user connects to the POTW and all appurtenances on such lateral sewer. The user is responsible for the maintenance of the lateral sewer including those portions that may be within any right-of-way. The term is interchangeable with "house service connection," "sewer service line," or "building sewer".

LOCAL LIMIT. Specific discharge limits developed and enforced by the Water Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

MASS EMISSION RATE. The weight of material discharged to the POTW during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.

MAXIMUM ALLOWABLE DISCHARGE LIMIT. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, and any other biohazardous waste materials.

MONTHLY AVERAGE. The sum of four (4) or more daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

MONTHLY AVERAGE LIMIT. The highest allowable average of daily discharges over a calendar month, calculated as the sum of four (4) or more daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

NATIONAL CATEGORICAL PRETREATMENT STANDARDS. Pollutant discharge limits contained in any regulation promulgated by the EPA in accordance with §307(b) and (c) of the Act (33 USC §1347) which applies to users. These terms include prohibitive discharge limits established pursuant to 40 CFR 403.5 of EPA's General Pretreatment Regulations.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES Permit). A permit issued to the POTW pursuant to §402 of the Act.

NEW SOURCE.

A. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under §307(c) of the Act which are applicable to such source if the categorical pretreatment standards are thereafter promulgated in accordance with §307(c), provided that:

B. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

C. The building structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at the existing source; or

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

E. Construction on a site at which an existing source is located and which 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 Subparagraph 1(b) or (c) of this paragraph but otherwise alters, replaces, or adds to an existing process or production equipment.

F. Construction of a new source has commenced if the owner or operator has:

G. Begun, or caused to begin, as part of a continuous on-site construction program:

H. Any placement, assembly, or installation of facilities or equipment; or

I. 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

J. Entered into a binding contractual obligation for the purchase of facilities or equipment which is 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.

NONDOMESTIC WASTEWATER. All waterborne solids, liquids, or gaseous wastes resulting from any commercial, industrial, or institutional activity as classified in the Ordinance, and distinct from domestic wastewater.

OILS – Mineral/Petroleum. Petroleum, oil, non-biodegradable cutting oil, or products of mineral oil origin, measured by a total petroleum hydrocarbon test approved by 40 CFR 136.

OVERFLOW. Any instance where wastewater flows outside of the established public or private wastewater collection system or wastewater pretreatment system.

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, causes of a violation of any requirement of the NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental person, or any other legal person, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

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, 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 characteristics, such as pH, temperature, TSS, turbidity, color, BOD, COD, NH_3N , FOG, toxicity, or odor.

PREMISES. A parcel of real estate or portion thereof, including any improvements thereon, which is connected to the POTW and which receives or uses water and wastewater services from the Water Authority.

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or

biological processes, process changes or by other means, except as prohibited by 40 CFR §403.6(d).

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

PRETREATMENT STANDARDS. Prohibited discharge standards, categorical pretreatment standards, and local limits.

PROHIBITED DISCHARGE STANDARDS. The prohibitions against the discharge of certain substances in Section 3-2-1.

PUBLICLY OWNED TREATMENT WORKS (POTW). The wastewater system owned by the Water Authority, including the wastewater reclamation plant and any devices and systems used by the Water Authority in the collection, storage, treatment, recycling and reclamation of domestic and nondomestic wastewater, including interceptor sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; and any works, including land that shall be an integral part of the treatment process or used for the ultimate disposal of residues resulting from treatment.

RECEPTACLE. Any pot, pan, dish, plate, platter, silverware, bowl, cup, glass, or other container that is used for preparing or serving foodstuffs.

SAMPLING; METERING MANHOLE. A suitable control manhole or cleanout together with such necessary meter and other appurtenances in the lateral sewer to facilitate observation, sampling, and measurement of the wastes leaving the private Industrial User facility and entering then POTW.

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

SEWAGE. Human excrement and gray water, such as household showers, dishwashing operations.

SIGNIFICANT INDUSTRIAL USER.

1. A user subject to categorical pretreatment standards; or
2. A user that:

(a) Discharges an average of 25,000 GPD or more of process wastewater to the POTW, excluding sanitary, non-contact cooling, and boiler blowdown wastewater; or

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the Industrial Pretreatment Engineer on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or pretreatment requirement.

(d) Upon a finding that a user meeting the criteria in Subparagraph 2 of this paragraph has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or pretreatment requirement, the Industrial Pretreatment Engineer may at any time, on his own initiative or in response to a petition from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that the user should not be considered a significant industrial user.

SLUG. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in §3-2-1. A slug discharge is any discharge of a non-routine, episodic nature, including 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 violates the POTW's regulations, local limits or wastewater discharge permit conditions.

STANDARD INDUSTRIAL CLASSIFICATION. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STORM SEWER. A sewer which carries storm and surface waters and drainage but excludes wastewater and industrial wastes.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

TIME-PROPORTIONAL COMPOSITE SAMPLE. A sample consisting of several portions of the user's discharge collected during a 24-hour period in which each portion

of the sample is collected within a specified time frame that is irrespective of flow. The time period may be less than twenty four (24) hours to correspond with actual hours of operation.

TOTAL METALS. The sum of the concentrations of Copper (Cu), Nickel (Ni), Total Chromium (Cr) and Zinc (Zn).

TOTAL PETROLEUM HYDROCARBONS (TPH). Those components of wastewater measured by methods approved by 40 CFR 136, including non-polar petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin oils, and other components extracted from wastewater by those methods, and excluding the polar fraction.

TOTAL SUSPENDED SOLIDS (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids. Those solids which are retained by a standard glass fiber filter and dried to constant weight at 217 - 221°F (103 – 105° C). expressed in milligrams per liter (mg/l), by Standard Methods procedures.

TOXIC POLLUTANT Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of 33 USC 1317 and any pollutant which is not compatible with the POTW and the NPDES permit in the opinion of the Industrial Pretreatment Engineer.

USER. Any person who discharges or causes or allows the discharge of wastewater into the POTW. A user does not have to be a customer, as that term is defined in the Albuquerque Bernalillo County Water Utility Authority Water and Sewer Rate Ordinance, to be subject to the terms and conditions of this Ordinance.

WASTE. Sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

WATER AUTHORITY. The Albuquerque Bernalillo County Water Utility Authority.

WASTEWATER. The used water of a community. Such used water may be a combination of the liquid waterborne wastes from residences, commercial buildings,

industrial plants and institutions, whether treated or untreated, discharged into or permitted to enter the POTW.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological characteristics, including volume and flow rate and such other characteristics that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WASTEWATER DISCHARGE PERMIT. A permit authorizing a user to discharge prohibited pollutants into the POTW upon the condition that the user complies with the terms and conditions of the permit and the provisions of this Ordinance, including the obligation to fulfill all reporting requirements of the permit and to discharge pollutants at concentrations no greater than the concentrations listed in the permit.

3-1-5 ADMINISTRATION.

The Executive Director shall administer, implement, and enforce this Ordinance. The Executive Director may promulgate regulations to implement and carry out the provisions of this Ordinance, The Executive Director shall establish a schedule of fees sufficient to recover the reasonable costs of reviewing and acting on any application for a wastewater discharge permit, monitoring compliance with this wastewater discharge permits and this Ordinance, including, but not limited to, inspections, taking samples, analyzing samples, and reviewing pretreatment plans and BMPs; and hearings. Any powers granted to or duties imposed upon the Executive Director may be delegated by the Executive Director. The Executive Director shall appoint the Industrial Pretreatment Engineer and any other persons to assist with the administration and enforcement this Ordinance. The Executive Director may appoint independent hearing officers to hear appeals from actions taken by the Industrial Pretreatment Engineer and any other matters arising under this Ordinance.

3-2 GENERAL SEWER USE REQUIREMENTS

3-2-1 PROHIBITED DISCHARGE STANDARDS.

A. General Prohibitions. A user shall not introduce or cause to be introduced into the POTW any pollutant or wastewater which acting alone or in conjunction with other substances present in the wastewater causes pass through or interference with the operation of the POTW. These general prohibitions apply to all users whether or not they

are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or pretreatment requirements.

B. Specific Prohibitions. A user shall not introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

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

(2) Wastewater having a pH less than 5.0 or more than 12.0, which could cause corrosive structural damage to the POTW or equipment.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference with the operation of or which could cause damage to the POTW, including fats, oils, and grease, wax or other materials which tend to coat and clog a sewer line or other appurtenances thereto.

(4) Pollutants, including oxygen demanding pollutants, such as BOD, COD, and NH₃N, released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case wastewater which causes the temperature at the treatment works influent to exceed 104° F (40° C). Unless a higher temperature is allowed in the user's wastewater discharge permit, a user shall not discharge into the POTW wastewater with a temperature exceeding 140° F (60° C).

(6) Total Petroleum Hydrocarbons (TPH), in amounts that will cause interference or pass through and in no case greater than 100 mg/l.

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

(8) Trucked or hauled pollutants, except at discharge points designated by the Industrial Pretreatment Engineer in accordance with §3-3-7.

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair, or result in pollution of receiving waters.

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

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.

(a) A user shall not discharge or permit to be discharged any radioactive waste into the POTW.

(b) Hospitals and specialized clinics for radiation treatment may discharge low level radioactive waste when all of the following conditions are met:

(i) A user is authorized to use radioactive materials by the Radiation Protection Bureau of the New Mexico Environment Department, or applicable federal agency;

(ii) The waste is discharged in strict conformity with applicable laws and regulations of the Radiation Protection Bureau or any other agency having jurisdiction; and

(iii) A copy of permits received from the Radiation Protection Bureau or any other agency having jurisdiction has been filed with the Industrial Pretreatment Engineer.

(12) Storm water, surface water, ground water, artesian well water, roof runoff, remediation water, subsurface drainage, street drainage, and basement drainage, unless specifically authorized by the Industrial Pretreatment Engineer.

(a) Clean-up waters from ground water remediation sites or other non-standard industrial permitted sources will not be accepted into the POTW.

(b) Any person requesting a discharge of any non-standard industrial permitted discharge shall prepare a detailed proposal describing the

characteristics of the proposed discharge, including toxicity, bio-treatability, analysis of alternatives, hazardous nature, quantity, duration, pass-through potential, POTW biological inhibition potential and any other factors deemed appropriate by the Industrial Pretreatment Engineer.

(c) The Industrial Pretreatment Engineer may, if the discharge is approved, impose monitoring and analysis requirements which may include the requirement that the user test the discharge waters and the POTW influent, effluent and sludge. Extra strength surcharge fees may be applied to any discrete discharge. The Industrial Pretreatment Engineer may deny any discharge request or deny the continuation of a discharge previously approved if in the judgment of the Industrial Pretreatment Engineer the continuance of the discharge will adversely impact the POTW or compliance with the NPDES permit.

(13) Sludge, screenings, or other residues from the pretreatment of industrial wastes.

(14) Medical wastes, except as specifically authorized by the Industrial Pretreatment Engineer in a wastewater discharge permit.

(15) Wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail a NPDES permit toxicity test.

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 200 mg/l.

(18) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter.

(19) Any pollutant which would result in a violation of any statute, rule, regulation, or Ordinance of any public agency, including discharges prohibited by EPA.

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

3-2-2 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

A. Users shall comply with the categorical pretreatment standards at 40 CFR Chapter 1, Subchapter N, Sections 405-471. All users subject to a national categorical pretreatment standard shall comply with all requirements of the standard, and any limitations contained in this Ordinance. Where there is a duplication of limitations for the same pollutant, the limitations that are more stringent shall prevail. Compliance with national categorical pretreatment standards for existing sources that are subject to such standards upon the promulgation of such standards or for existing sources that become subject to such standards after the promulgation of such standards shall be required within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standards. Compliance with national categorical pretreatment standards for new sources shall be required upon promulgation of the standards. Except where expressly authorized by an applicable national categorical pretreatment standard, no user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

B. Any user who is operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based pretreatment standard shall notify the Industrial Pretreatment Engineer within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user who does not notify the Industrial Pretreatment Engineer of the anticipated change shall be required to meet the mass or concentration limits in its wastewater discharge permit that were based on the original estimate of the long-term average production.

3-2-3 LOCAL LIMITS.

A. The Industrial Pretreatment Engineer may establish local limits pursuant to 40 CFR 403.5(c).

B. The following pollutant limits are established to protect against pass through and interference. A user shall not discharge wastewater into the POTW containing the following substances in amounts that exceed the following amounts:

Pollutant	2020 TBLL, Daily Maximum Composite mg/L (unless noted)	2020 TBLL, Monthly Average mg/L (unless noted)
Aluminum	900	-
Ammonia	350.5	103.8
Arsenic	0.0510	-
Boron	-	699
Cadmium	0.500	-
Chromium	4.10	-
COD	16,543	6,743
CBOD	7,030	2,855
Copper	3.17	-
Cyanide	0.450	-
Fluoride	22.7	9.06
Lead	1.00	0.920
Mercury	0.0040	0.0015
Molybdenum	2.00	1.23
Nickel	2.00	-
Selenium	0.253	0.0395
Silver	5.00	-
TSS	18,719	11,101
Zinc	2.20	-
Formaldehyde	100 ¹	-
TPH	100 ¹	-
FOG	200 ¹	-
Total Phenolic Compounds	2.00 ¹	-
Benzene	0.050 ¹	-
BTEX	0.750 ¹	-
pH	5.0 - 12.0 s.u. ¹	-
Temperature	140° F ¹	-

¹ These TBLLs are instantaneous limits and will be monitored via grab samples, online or field instruments.

C. These limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metals unless indicated otherwise. The Industrial Pretreatment Engineer may impose mass limitations in addition to the concentration-based limitations above.

D. The Industrial Pretreatment Engineer may develop BMPs, by regulation, or in wastewater discharge permits to implement local limits and the requirements of §3-2-1.

3-2-4 DILUTION.

A user shall not 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 pretreatment requirement. The Industrial Pretreatment Engineer may impose mass limitations on users to meet applicable pretreatment standards or pretreatment requirements.

3-2-5 WASTEWATER ANALYSIS.

When requested by the Industrial Pretreatment Engineer, a user shall submit information about the nature and characteristics of its wastewater discharge. The Industrial Pretreatment Engineer may prescribe a form for this purpose and may periodically require users to update the information.

3-2-6 SAMPLING; METERING MANHOLE REQUIREMENTS.

When required by the Industrial Pretreatment Engineer, the industrial user/owner of property serviced by a lateral sewer carrying industrial wastes shall install a suitable control manhole or cleanout together with such necessary meter and other appurtenances in the lateral sewer to facilitate observation, sampling, and measurement of the wastes. Such monitoring locations shall be accessible, safely located, and constructed in such a manner as to prevent infiltration of ground and surface waters. They shall be constructed in accordance with plans approved by the Industrial Pretreatment Engineer. The Industrial Pretreatment Engineer has established standard details. The

monitoring location and all equipment shall be installed by the owner at their expense and shall be maintained by the owner to be safe and accessible at all times.

3-2-7 LATERAL REQUIREMENTS.

Each legally platted property shall have individual, independent private sanitary sewer services. No property shall share a private sewer service with any other property.

3-3. PRETREATMENT OF WASTEWATER

3-3-1 PRETREATMENT FACILITIES.

A. Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in §3-2-1 of this Ordinance within the time limitations specified by EPA, the state, or the Industrial Pretreatment Engineer, whichever is more stringent. Any equipment or facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing the facilities and operating procedures shall be submitted to the Industrial Pretreatment Engineer for review and shall be approved by the Industrial Pretreatment Engineer before the facilities are constructed. The review of the plans and operating procedures by the Industrial Pretreatment Engineer shall in no way relieve the user of the responsibility for modifying such facilities as necessary to produce a discharge that conforms to the requirements and limitations of this Ordinance.

B. In lieu of wastewater treatment, industrial users may, and are encouraged to reduce, eliminate, or otherwise prevent polluting substances from entering their wastestream through source reduction or waste minimization measures or by utilizing other best management practices.

3-3-2 FATS, OILS, GREASE, AND SOLIDS DISCHARGE REQUIREMENTS.

A. Applicability. The Industrial Pretreatment Engineer shall monitor users who hold wastewater discharge permits, such as food service establishments, commercial food processors, automotive shops, auto wash racks, car washes, vehicle fueling stations, septic tank pumpers, grease rendering facilities, breweries/distilleries, bottling plants, commercial and industrial laundries, slaughterhouses & meat packing establishments (fish, fowl, meat, curing, hide curing), oil tank firms and transporters, and

any other Fats, Oils, Grease and Solids (FOGS) dischargers as deemed appropriate by the Industrial Pretreatment Engineer to accomplish the purposes and objectives of this Ordinance.

B. Compliance. All such dischargers are required to be in compliance with the prohibited pollutant provisions of §3-2-1. In addition to the Industrial Pretreatment Engineer's right of entry to users' premises and facilities as provided in Section 3-7, Compliance Monitoring, FOGS dischargers shall provide the Industrial Pretreatment Engineer unobstructed, direct access to view and inspect the grease interceptor. Unobstructed, direct access includes physically opening the grease interceptor lid or manholes by the establishment employees. FOGS dischargers are subject to monitoring, inspection, reporting, and other requirements as determined by the Industrial Pretreatment Engineer to ensure compliance with all FATS, OIL, GREASE, and SOLIDS discharge requirements. FOGS dischargers are not required to apply for a wastewater discharge permit unless the Industrial Pretreatment Engineer determines that the FOGS discharger is a source of prohibited pollutants, toxic pollutants in toxic amounts, extra strength discharges, or are otherwise controlled by federal regulations. The Industrial User (FOGS discharging facility) is responsible for the maintenance of their grease interceptor,

C. FATS, OILS, GREASE and SOLIDS Interceptor Requirements. All newly constructed and existing FOGS dischargers shall have installed an adequately sized Grease Interceptor approved by the appropriate code enforcement authority (City of Albuquerque, and/or Bernalillo County). These FOGS dischargers shall exercise proper industry best management practices to ensure that excess concentrations of FOGS are not discharged to the POTW. Any new construction, major renovations, or substantial remodeling undertaken by a FOGS discharger shall include an accessible service / or sample port for the approved grease interceptor installed. Where a change in business practices results in a significant increase in the loading of FOGS discharge, the FOGS discharger shall verify and confirm with the applicable code enforcement authority, that the size of the grease interceptor and maintenance schedule is appropriate. If the grease interceptor or maintenance practices are not adequate, the FOGS discharger shall make

necessary modifications in the grease interceptor or maintenance practices to ensure that excess concentrations of FOGS are not discharged to the POTW.

D. Grease Interceptor Maintenance. All grease interceptor shall be maintained and cleaned at appropriate intervals to ensure proper operation and compliance with discharge limitations. Each cleaning of a grease interceptor shall include the evacuation of all contents. At a minimum, grease interceptor shall be cleaned at least once every six (6) months or whenever the combined thickness of floating greases and settled solids is equal to, or greater than, twenty-five percent (25%) of the total liquid depth in the grease interceptor (or 25% Rule). The material that is removed in the process of cleaning a grease interceptor shall not be discharged into the POTW, any private sewer, any drainage piping, or storm sewer system. All material removed shall be handled and disposed of in accordance with applicable federal, state, county and local laws, rules, and regulations.

(1) Hydromechanical Grease Interceptors must be evacuated/cleaned whenever the combined thickness of floating grease and settled solids is equal to fifty percent (50%) or recommended thickness by manufacture, of the total liquid depth in the grease interceptor or once every six (6) months. The 25% Rule still applies to under-the-sink hydromechanical grease interceptors.

(2) Gravity Grease Interceptors must be evacuated/cleaned whenever the combined thickness of floating grease and settled solids is equal to twenty-five percent (25%) or once every six (6) months.

E. Recordkeeping Requirements/Manifests.

(1) Fats, oils, grease and solids dischargers shall document all cleaning and maintenance activities performed on the grease interceptor, including pumping manifests. All FOGS dischargers with a grease interceptor installed after 2021 shall have in their records, the manufacture information pertaining to their interceptor brand, model, grease and solids capacity, and pumping cycle. These records shall be maintained for a minimum of three (3) years onsite and shall be made available for inspection and copying by the Industrial Pretreatment Engineer. FOG dischargers shall

use only grease interceptor pumping companies that are in compliance with the septage disposal requirements of §3-3-7 and the Water Authority FOG Policy.

(2) All grease interceptor pumping companies shall provide a FOGS discharger with a legible manifest containing the following information: date of cleaning, amount of material removed, anticipated disposition of waste material, cleaning frequency, and any repairs undertaken or any grease interceptor deficiencies.

F. Grease Interceptor Failure. A failure to maintain a grease interceptor that results in an overflow, a partial or complete blockage of a lateral sewer or of a private sewer discharging to the POTW, adversely affects the treatment or transmission capabilities of the POTW, requires excessive maintenance, or poses a possible public health hazard or threat to the environment, is a violation of this Ordinance. The FOGS discharger responsible for the facilities shall be liable for the cost to repair any damage to the POTW and any additional costs to operate and maintain the POTW caused by the discharge until the damage is corrected.

3-3-3 DENTAL REQUIREMENTS.

A. Applicability. All non-exempt dental offices shall install an amalgam separator sized to accommodate the facilities maximum discharge rate in accordance with the manufacturer's operation manual. In addition to the Industrial Pretreatment Engineer's right of entry to users' facilities as provided at Section 3-7, Compliance Monitoring, dental offices shall provide the Industrial Pretreatment Engineer unobstructed, direct access to view and inspect the installed amalgam separator. Dental offices are subject to monitoring, inspection, reporting, and other requirements as determined by the Industrial Pretreatment Engineer to ensure compliance with all dental amalgam-separator limitations and best management practices. Dental dischargers are not required to apply for a wastewater discharge permit unless the Industrial Pretreatment Engineer determines that the dental office is a significant source of prohibited pollutants, toxic pollutants in toxic amounts, or is otherwise controlled by federal regulations.

B. Exemptions. The following dental offices are exempt from the requirements of this Section, except for One-Time Compliance Report and/or exempt certification documentation requirements:

(1) A dental office that can demonstrate that it is not engaged in more than three (3) amalgam replacement, removal, or modification events in a 12-month period. A dental office that is exempt due to infrequent amalgam events will be required to submit and maintain a One-Time Compliance Report;

- (2) An orthodontist;
- (3) A periodontist;
- (4) An oral maxillofacial surgeon;
- (5) An oral maxillofacial radiologist;
- (6) An oral pathologist; or
- (7) A prosthodontic.

C. Compliance. Dental dischargers are subject to the following requirements.

(1) Amalgam separators. All amalgam separators must be designed to achieve ninety five percent (95%) removal efficiency in conjunction with the American National Standard Institute (ANSI) American National Standard/ American Dental Association (ADA) Specification 108 for Amalgam Separators (2009) with Technical Addendum (2011) or the International Organization for Standardization (ISO) 11143 Standard (2008) and all subsequent versions. ninety five percent (95%) removal efficiency must be certified by an accredited laboratory in accordance with the Code of Federal Regulations (CFR) 40 CFR 441.

(2) All dental offices subject to this section must maintain amalgam separators and keep required documentation in accordance with this section.

D. Maintenance. Amalgam separators must be inspected and maintained in accordance with the manufacturer's recommendations. The amalgam retaining unit of an amalgam separator must be replaced in accordance with the manufacturer's schedule as specified by the manufacturer's operating manual or when the amalgam retaining unit has reached the maximum level at which the amalgam separator can perform to the specified efficiency, whichever comes first. Amalgam retaining units must be picked up or shipped for proper disposal. In the event that an amalgam separator is not functioning properly, the amalgam separator must be repaired consistent with manufacturer instructions, must be replaced with a new unit compliant with this section or a compliance plan must be

provided to the Industrial Pretreatment Engineer within seven (7) days of the discovery of the issue.

E. Recordkeeping Requirements. Dental offices shall maintain records on-site of the operation, maintenance, inspection, repair, replacement and recycling or disposal of amalgam waste for the previous three (3) years. Records should include all information outlined in 40 CFR 441.5 (b). Records must be available during business hours.

(1) Dental offices must maintain a signed one-time compliance report as issued by the Water Authority. Complete One-Time Compliance Reports were due to be submitted by October 12th, 2020. For new sources, completed One-Time Compliance reports must be submitted within ninety (90) days following the introduction of wastewater into the collection system. Within ninety (90) days of a transfer of ownership new owners must submit a completed One-Time Compliance Report.

(2) Exempt facilities are required to maintain a signed exempt certification and must request recertification every three (3) years or as needed, determined by the Pretreatment Engineer. If an exempt facility engages in more than three (3) amalgam events in a twelve (12) month period, it is no longer considered exempt and must notify the Pretreatment Engineer.

F. Operation and Best Management Practices (BMPs). The following BMPs are recommended to ensure compliance with the SUO and federal regulations.

(1) Amalgam separators should be inspected frequently to ensure retaining portion is not passed capacity, the amalgam separator is functional and to confirm that amalgam process wastewater is flowing through the amalgam retaining portion. An inspection log is recommended.

(2) Waste amalgam should be limited in amalgam process wastewater. Waste amalgam including, but not limited to, amalgam from the chair-side traps, screens, vacuum pumps filters dental tools, cuspidors, or collection devices, must not be discharged to the collection system. Waste amalgam should be collected in an amalgam waste container and disposed of properly.

(3) Lines that discharge amalgam process wastewater must not be cleaned with oxidizing or acidic cleaners, including but not limited to bleach, chlorine,

iodine and peroxide that have a pH lower than six (6) or greater than eight (8). Dental facilities should continuously access their chemical inventory to remain in compliance with this Section.

G. New Facilities/ Transfer of Ownership. Upon transfer of ownership, the previous owner must replace the amalgam retaining unit and ensure it is disposed of correctly. The previous owner should notify the new owner or landlord to contact the Water Authority to arrange the completion of the One-Time Compliance Report. New dental offices shall report the model and size of their amalgam separator within ninety (90) days after installation of the separator to the Industrial Pretreatment Engineer.

H. Mobile units that provides dentistry services are considered exempt from maintaining an amalgam separator and one-time compliance report but may not discharge amalgam process wastewater into the POTW.

(1) Any mobile unit that requires that they discharge into the POTW is subject to the same requirements as non-exempt dental dischargers.

3-3-4 GARBAGE GRINDERS.

Waste from commercial garbage grinders may be discharged into the POTW where generated in the preparation of food. Such grinders shall shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the POTW. Garbage grinders shall not be used for the grinding of plastic, paper products, inert materials, or garden refuse.

3-3-5 ADDITIONAL PRETREATMENT MEASURES.

A. Whenever deemed necessary, the Industrial Pretreatment Engineer may require users to restrict discharge during peak flow periods, discharge wastewater designated by the Industrial Pretreatment Engineer only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and monitor the user's compliance with the requirements of this Ordinance.

B. The Industrial Pretreatment Engineer may require any user discharging into the POTW to install and maintain, on the user's premises and at the user's expense, a

suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. The Industrial Pretreatment Engineer may require any user with the potential to discharge flammable substances into the POTW to install, maintain and keep records for an approved combustible gas detection meter.

3-3-6 ACCIDENTAL DISCHARGE/SLUG DISCHARGE CONTROL PLANS.

A. Users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharges into the POTW of waste regulated by this Ordinance from liquid or raw material storage areas, from truck or rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds. Plans, specifications, and operating procedures for such special permit conditions shall be developed by the User and submitted to the Industrial Pretreatment Engineer for review.

B. At least once every two (2) years, the Industrial Pretreatment Engineer shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Industrial Pretreatment Engineer may require any significant industrial user to develop, submit for approval, and implement a plan. Alternatively, the Industrial Pretreatment Engineer may develop a plan for any significant industrial user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Industrial Pretreatment Engineer of any accidental or slug discharge, as required by §3-6-5; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge, including, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, and measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3-3-7 HAULED WASTEWATER REQUIREMENTS.

A. Applicability. Hauled wastewater and holding tank waste may be introduced into the POTW only at locations designated by the Industrial Pretreatment Engineer, and at such times as are established by the Industrial Pretreatment Engineer. Hauled wastewater and holding tank waste shall not violate Section 3-3-7 B (2).

B. Compliance.

(1) A user who owns vacuum or septic tank-type pumping trucks or other liquid waste transport trucks shall not discharge waste into the POTW, unless the user has received a hauled waste discharge permit (septic tank discharge or chemical toilet discharge) from the Industrial Pretreatment Engineer.

(2) Any violation of the terms and conditions of a septic tank discharge or chemical toilet discharge permit is a violation of this Ordinance.

(3) Obtaining a septic tank discharge or chemical toilet discharge permit does not relieve a user of its obligation to comply with all applicable federal, state, and local laws and regulations.

(4) A waste hauler shall not mix different categories of wastes in their permitted trucks. Chemical toilet and septage trucks shall only be used for these wastes. Permitted trucks shall not be used for grease interceptor, sand interceptor, or other industrial waste unless given specific permission, in the permit, by the Industrial Pretreatment Engineer.

C. Recordkeeping/Manifest Requirements. Septage waste haulers shall give the Industrial Pretreatment Engineer a waste-tracking form/manifest from each pump out source of every load discharged into the POTW. The form shall include, at a minimum, the name and address of the waste transporter, permit number, truck identification, and complete information regarding the names and addresses of sources of waste, volume and characteristics of waste from the waste producer.

3-4. WASTEWATER DISCHARGE PERMITS

3-4-1 PERMIT REQUIREMENTS.

A. A significant industrial user shall not discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Industrial Pretreatment

Engineer, except that a significant industrial user that has filed a timely application pursuant to §3-4-2 may continue to discharge for the time period specified in §3-4-2.

B. The Industrial Pretreatment Engineer may require other users to obtain a wastewater discharge permit as necessary to carry out the purposes and objectives of this Ordinance.

C. Any violation of the terms and conditions of a wastewater discharge permit is a violation of this Ordinance. Obtaining a wastewater discharge permit does not relieve a user of its obligation to comply with all federal and state pretreatment standards or pretreatment requirements or with any other requirements of federal, state, and local law.

3-4-2 EXISTING CONNECTIONS.

Any user who is required to obtain a wastewater discharge permit, who was discharging wastewater into the POTW prior to the effective date of this Ordinance, who does not have a current wastewater discharge permit, and who wishes to continue discharging into the POTW, shall, within ninety (90) days after the effective date of this Ordinance, apply for a wastewater discharge permit in accordance with §3-4-4, and shall not cause or allow discharges to the POTW to continue after ninety (90) days after the effective date of this Ordinance, except in accordance with a wastewater discharge permit.

3-4-3 NEW CONNECTIONS.

Any user who is required to obtain a wastewater discharge permit and who proposes to begin or recommence discharging into the POTW shall obtain a wastewater discharge permit prior to discharging into the POTW. An application for a wastewater discharge permit to begin or recommence discharging into the POTW, in accordance with §3-4-5, shall be filed at least ninety (90) days prior to the date upon which any discharge may begin or recommence.

3-4-4 PERMIT APPLICATION.

A. All users who are required to obtain a wastewater discharge permit shall submit an application on a form provided by the Industrial Pretreatment Engineer which shall include the following information:

- (1) Identifying Information:
 - (a) The name and address of the user's facility;

- (b) The name of the manager, operator and owner of the facility;
 - (c) The name of each person who is authorized to make management decisions that govern the operation of each manufacturing, production, or operating facility named in the application, who has the explicit or implicit duty to make major capital investment recommendations, who initiates and directs other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations, who can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater discharge permit requirements, and who has been authorized to sign documents on behalf of the user;
 - (d) Contact information for each person named in the application pursuant to Subparagraph 1(a) through (c); and
 - (e) A description of the activities, facilities, and plant production processes on the premises;
- (2) A list of any environmental control permits held by or for each facility;
 - (3) Description of Operations:
 - (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operations carried out by the user. The description shall include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
 - (b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (c) Number and type of employees and hours of operation;
 - (d) Type and amount of raw materials processed (average and maximum per day); and
 - (e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

- (4) Time and duration of discharges;
- (5) The locations for monitoring all wastes covered by the permit application;
- (6) 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 40 CFR 403.6(e);
- (7) Measurement of Pollutants;
 - (a) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources;
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the pretreatment standard or by the Industrial Pretreatment Engineer, of regulated pollutants in the discharge from each regulated process;
 - (c) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required;
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §3-6-1. Where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Industrial Pretreatment Engineer or the applicable pretreatment standards to determine compliance with the pretreatment standard;
 - (e) Monitoring shall be performed in accordance with procedures set out in §3-6-1; and
- (8) Any other information as may be deemed necessary by the Industrial Pretreatment Engineer to evaluate the permit application.

B. Applications that are incomplete or that contain inaccurate information shall not be processed and shall be returned to the user.

3-4-5 SIGNATURES AND CERTIFICATIONS.

A. All applications for wastewater discharge permits, user reports and certification statements shall be signed by the authorized representative and shall contain the certification statement prescribed by §3-6-13.

B. If the designation of an authorized representative is no longer valid or accurate the user shall submit a new designation of the user's authorized representative to the Industrial Pretreatment Engineer prior to or together with the submittal of any applications, reports, or certifications that the user is required or permitted to file with the Industrial Pretreatment Engineer.

3-4-6 PERMIT EVALUATION.

The Industrial Pretreatment Engineer shall evaluate all data furnished by the user in support of the user's application and may require additional information to determine whether a wastewater discharge permit should be issued. Within thirty (30) days after receipt of a complete permit application, the Industrial Pretreatment Engineer shall determine whether to issue a wastewater discharge permit. The Industrial Pretreatment Engineer may deny an application if:

- A. The application is incomplete or contains inaccurate information;
- B. The proposed discharge will not meet pretreatment standards or comply with pretreatment requirements;
- C. The proposed discharge will cause or will likely cause interference or pass through;
- D. The proposed discharge may pose a threat to the health and safety of the Water Authority's personnel and the public or the environment;
- E. The user has not completed the installation of all equipment or facilities required by this Ordinance;
- F. The equipment or facilities that are installed by the user to comply with this Ordinance, will not operate in a manner that will comply with the requirements of this Ordinance or the proposed wastewater discharge permit; or
- G. The proposed discharge will cause or likely cause a violation the NPDES permit, this Ordinance, or a federal, state, local law or regulation.

3-5. WASTEWATER DISCHARGE PERMIT ISSUANCE

3-5-1 PERMIT DURATION.

Wastewater discharge permits shall be issued for a fixed term, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period of less than five (5) years, at the discretion of the Industrial Pretreatment Engineer, if the Industrial Pretreatment Engineer determines that a permit period of less than five (5) years is necessary to accomplish the purposes and objectives of this Ordinance. Each wastewater discharge permit shall indicate a specific date upon which it expires.

3-5-2 PERMIT TERMS AND CONDITIONS.

A. Wastewater discharge permits shall include such conditions as the Industrial Pretreatment Engineer determines are necessary 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, protect against damage to the POTW, and comply with the NPDES permit.

B. Wastewater discharge permits shall contain:

- (1) The issuance date, expiration date, and effective date of the permit;
- (2) A statement that the wastewater discharge permit is not transferable without prior notification to the Industrial Pretreatment Engineer in accordance with §3-5-5, and the assumption by the transferee of the terms and conditions of the permit;
- (3) Effluent limits and best management practices, based on applicable pretreatment standards, categorical Limits, local limits, and state and local law;
- (4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, which shall include an identification of pollutants or applicable best management practice to be monitored, sampling location, sampling frequency, analytical methods, detection limits and sample type based on federal, state, and local law;
- (5) A statement of assessments that may be imposed for violations of pretreatment standards and pretreatment requirements, and any applicable compliance schedule. The compliance schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law; and

(6) Requirements to control slug discharge, if the Industrial Pretreatment Engineer determines that such requirements are necessary.

C. Wastewater discharge permits may contain the following conditions:

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

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

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

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

(5) The unit charge or schedule of user charges and fees for the Water Authority's management of the wastewater discharged to the POTW;

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

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal, state, and local pretreatment standards, including those that become effective during the term of the wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the Industrial Pretreatment Engineer to ensure compliance with this Ordinance, the NPDES permit, and federal, state, and local laws, rules, and regulations.

3-5-3 PERMIT RECONSIDERATION.

A. A user may petition the Industrial Pretreatment Engineer to reconsider the terms and conditions of a wastewater discharge permit within thirty (30) days after the permit has been issued.

B. Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the right to request reconsideration.

C. In the petition, the user shall indicate the terms and conditions of the wastewater discharge permit that the user objects to, the reasons for the objection, and the alternative terms and condition, if any, the user seeks to incorporate into the wastewater discharge permit.

D. The wastewater discharge permit shall remain in effect and shall not be stayed pending the reconsideration process.

E. If the Industrial Pretreatment Engineer fails to act on the petition for reconsideration within thirty (30) days after receipt of the petition, the request for reconsideration shall be deemed to be denied.

3-5-4 PERMIT MODIFICATION.

A. The Industrial Pretreatment Engineer may modify a wastewater discharge permit for good cause, including the following:

(1) To incorporate new or revised federal, state, or local pretreatment standards or pretreatment requirements;

(2) To address significant alterations or additions to the user's operations, processes, or wastewater volume or character since the time of the wastewater discharge permit was issued;

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

(4) Information indicating that the permitted discharge poses a threat to the POTW, the Water Authority's personnel, sludge disposal, or the receiving waters;

(5) To address violations of any terms and conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the application for the wastewater discharge permit or in any required monitoring and reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

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

(9) To reflect a transfer of the ownership or operation of the facility to a new owner or operator in accordance with §3-5-5.

3-5-5 PERMIT TRANSFER.

A. Wastewater discharge permits may be transferred to a new owner or operator of the permitted facility only if the permittee submits notice of intent to transfer the permit at least sixty (60) days prior to the transfer to the Industrial Pretreatment Engineer and the Industrial Pretreatment Engineer approves the transfer. The notice to the Industrial Pretreatment Engineer shall include a written certification by the new owner or operator which:

- (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 will occur; and
- (3) Acknowledges that the new owners understand the terms and conditions of the wastewater discharge permit and assume full responsibility for complying with the permit.

B. Failure to give the Industrial Pretreatment Engineer advance notice of a transfer as provided in this Section renders the wastewater discharge permit void effective as of the date the facility is transferred to the new owner or operator.

3-5-6 PERMIT REVOCATION AND SUSPENSION.

A. The Industrial Pretreatment Engineer may revoke or suspend a wastewater discharge permit if the permittee has:

- (1) Failed to notify the Industrial Pretreatment Engineer of significant changes to the quantity and/or quality of wastewater prior to the changed discharge;
 - (2) Failed to provide prior notification to the Industrial Pretreatment Engineer of changed conditions pursuant to §3-6-4;
 - (3) Misrepresented or failed to fully disclose all relevant facts in the user's application for the wastewater discharge permit;
 - (4) Falsified self-monitoring reports and certification statements;
- Tampered with monitoring equipment;

- (5) Refused to allow the Industrial Pretreatment Engineer, or designee, timely access to the user's premises, facility, and records;
- (6) Failed to meet effluent limitations;
- (7) Failed to pay fees and assessments imposed by this Ordinance;
- (8) Failed to pay sewer charges imposed by the Albuquerque Bernalillo County Water Utility Authority Water and Sewer Rate Ordinance;
- (9) Failed to meet compliance schedules;
- (10) Failed to complete a wastewater survey or application for a wastewater discharge permit;
- (11) Failed to provide advance notice of the transfer of the ownership or operation of the permitted facility; or
- (12) Violated of any pretreatment standard or pretreatment requirement, any terms of the wastewater discharge permit, or this Ordinance.

B. Prior to revoking or suspending a permit, the Industrial Pretreatment Engineer shall issue to the permittee an order to show cause pursuant to §3-10-4 herein.

C. Wastewater discharge permits are voidable upon the cessation of operations at the permitted facility or the transfer of the ownership or operation of the permitted facility. All wastewater discharge permits issued to a user is void upon the issuance of a new wastewater discharge permit to the user.

3-5-7 PERMIT REISSUANCE.

A user may apply for the reissuance of an expiring wastewater discharge permit by submitting a complete permit application, in accordance with §3-4-4, not less than thirty (30) days prior to the expiration of the user's existing wastewater discharge permit.

3-6. REPORTING REQUIREMENTS

3-6-1 BASELINE MONITORING REPORTS.

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard or of the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever date occurs last, existing categorical industrial users discharging to or scheduled to discharge to the POTW shall submit to the Industrial Pretreatment Engineer a report which contains the information listed in

Paragraph B of this Section. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, shall submit to the Industrial Pretreatment Engineer a report which contains the information listed in Paragraph B of this Section. The owner or operator of a new source shall report the method of pretreatment it intends to use to meet applicable categorical pretreatment standards and provide estimates of the anticipated quantity and quality of pollutants that will be discharged.

B. The baseline monitoring report required in Paragraph A of this Section shall contain the following information:

(1) All information required in §§3-4-4(A) (1) (a), 3-4-4(A) (2), 3-4-4(A) (3) (a), 3-4-4(A)(6), and 3-4-4(A)(7); and

(2) The results of the measurement of pollutants:

(a) The user shall take a minimum of one (1) representative sample to comply with the requirements of this Section;

(b) Samples shall be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process, if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user shall measure the quantity and quality necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the Industrial Pretreatment Engineer;

(c) Sampling and analysis shall be performed in accordance with 40 CFR 136;

(d) The Industrial Pretreatment Engineer may allow the submission of a baseline report that utilizes only historical data as long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(e) The baseline report shall indicate the time, date and place of sampling and methods and method detection limits of analysis. The user shall certify that the sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(3) Compliance Certification. A statement, signed by the user and certified by a professional engineer registered in the State of New Mexico, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and pretreatment requirements.

(4) Compliance Schedule. If additional pretreatment and/or operation and maintenance are required to meet the pretreatment standards, the user shall provide a schedule of the shortest time within which the user will provide the additional pretreatment and/or operation and maintenance. The scheduled completion date shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule shall meet the requirements of §3-6-2.

(5) Signature and Report Certification. All baseline monitoring reports shall be signed by the user and certified as provided in §3-6-13 the authorized representative.

3-6-2 COMPLIANCE SCHEDULE PROGRESS REPORTS.

A. The following conditions shall apply to the compliance schedule required by §3-6-1(B)(4):

(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 and/or operation and maintenance required for the user to meet the applicable pretreatment standards, including hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;

(2) The user shall submit a progress report to the Industrial Pretreatment Engineer no later than fourteen (14) days after each date in the schedule and the final

date of compliance including, as 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.

B. In no event shall more than nine (9) months elapse between the submittal of progress reports to the Industrial Pretreatment Engineer.

3-6-3 REPORTS OF COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINES.

A. Within ninety (90) days after the date for final compliance by an existing source with applicable categorical pretreatment standards, or after a new source commences to discharge wastewater into the POTW, any user subject to the pretreatment standards and pretreatment requirements shall submit to the Industrial Pretreatment Engineer a report containing the information required in §§3-4-4(A)(6) and (7) and 3-6-1(B)(2).

(1) For users subject to equivalent mass or concentration limits established in accordance with the procedures in §3-2-2, the report shall contain a reasonable measure of the user's long-term production rate.

(2) 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, the report shall include the user's actual production during the appropriate sampling period.

B. All compliance reports shall be signed and certified in accordance with §3-6-13. All monitoring shall be done in conformance with §3-6-8.

C. Except as specified in §3-6-4(C), all permitted users shall submit, at a frequency determined by the Industrial Pretreatment Engineer, but not less than twice per year (July and January), reports indicating the nature, the 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 require compliance with a BMP or pollution prevention alternative, the user shall submit the documentation required by the Industrial Pretreatment Engineer or the pretreatment standard to determine the compliance status of the user.

D. Users who file electronic documents with the Water Authority to satisfy the requirements of this Section shall comply with the rules and standards adopted by the information technology commission pursuant to the Electronic Authentication of Documents Act, §§14-15-1 et seq. NMSA 1978, and 40-CFR Section 3-3.

3-6-4 REPORTS OF CHANGED CONDITIONS.

A. Each user shall notify the Industrial Pretreatment Engineer of any substantial changes to the user's operations or system which might alter the nature, quantity, or quality, of its wastewater at least sixty (60) days before the change is scheduled to be made.

B. The Industrial Pretreatment Engineer may require the user to submit such information as the Industrial Pretreatment Engineer may deem necessary to evaluate the changed condition, including the submission of an application for a wastewater discharge permit.

C. The Industrial Pretreatment Engineer may issue a wastewater discharge permit or modify an existing wastewater discharge permit to address the changed conditions or anticipated changed conditions.

3-6-5 REPORTS OF POTENTIAL PROBLEMS.

A. In the case of any discharge, including accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the Industrial Pretreatment Engineer of the incident. If the Industrial Pretreatment Engineer cannot be reached, the user shall notify Plant Control at the Southside Water Reclamation Plant. The notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five (5) days after such discharge, the user shall, unless waived by the Industrial Pretreatment Engineer, submit a detailed written report describing the causes of the discharge and the measures to be taken by the user to prevent similar future occurrences. Notification by the user of the discharge shall not relieve the user of liability for any expense due to loss, damage, or other liability that might be incurred by

the Water Authority as a result of damage to the POTW, natural resources, or persons or property; nor shall the notification relieve the user of any fees or assessments which may be imposed pursuant to this Ordinance.

C. A notice shall be permanently posted at a prominent place on the user's premises advising its employees to call the Industrial Pretreatment Engineer or Plant Control at the Southside Water Reclamation Plant in the event of a discharge described in Paragraph A of this Section. Users shall ensure that all of its employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

D. Significant industrial users are required to notify the Industrial Pretreatment Engineer immediately of any changes at the user's facility that affect the potential for a slug discharge.

3-6-6 REPORTS FROM UNPERMITTED USERS.

Users who are not required to obtain a wastewater discharge permit shall provide reports regarding the discharge as required by the Industrial Pretreatment Engineer.

3-6-7 ANALYTICAL REQUIREMENTS.

A. All pollutant analyses, including sampling techniques, to be submitted as part of an application for a wastewater discharge permit or report shall be performed in accordance with the techniques prescribed in 40 CFR Section 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Section 136 does not contain sampling or analytical techniques for the pollutant in question, or if the EPA determines that the Section 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 prescribed by the Industrial Pretreatment Engineer.

B. All pollutant analyses, including sampling techniques, that are submitted as part of an application for a wastewater discharge permit or report shall be performed by an EPA approved laboratory, National Environmental Laboratory Accreditation Conference (NELAC), or ISO 17025 accredited laboratory.

3-6-8 MONITORING BY USERS.

A. Samples collected by users to satisfy reporting requirements shall 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.

B. Except as indicated in Paragraphs C and D of this Section, the user shall collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Industrial Pretreatment Engineer. Where time-proportional composite sampling or grab sampling is authorized by the Industrial Pretreatment Engineer, the samples shall be representative of the discharge. Using protocols, including appropriate preservation, specified in 40 CFR Section 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 sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other characteristics unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Industrial Pretreatment Engineer, as appropriate. Grab samples may be required to show compliance with instantaneous limits.

C. Monitoring for oil and grease, temperature, pH, cyanide, total phenols, sulfide, and volatile organic compounds shall be obtained using grab collection techniques.

D. For sampling required in support of baseline monitoring and 90-day compliance reports that are required by §§3-6-1 and 3-6-3, a minimum of four (4) grab samples shall 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; or facilities for which historical sampling data are available, the Industrial Pretreatment Engineer may authorize a lower minimum. For the reports required by §3-6-4, the user shall collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and pretreatment requirements.

3-6-9 NOTICE OF VIOLATION/REPEAT MONITORING AND REPORTING.

If monitoring performed by the user indicates a violation, the user shall notify the Industrial Pretreatment Engineer within twenty-four (24) hours after becoming aware of the violation. The user shall also repeat the monitoring at the user's expense and submit the results of the repeat analysis to the Industrial Pretreatment Engineer within thirty (30) days after becoming aware of the violation. Verification or interim monitoring by the user is not required if the Water Authority performs monitoring at the user's facility at least once a month, if the Water Authority performs monitoring at the user's premises between the time the initial monitoring was conducted and the time the user or the Water Authority receives the results of the monitoring, or if the Water Authority has performed the monitoring instead of the user. The user shall pay the costs of verification, interim monitoring conducted by the Water Authority.

3-6-10 NOTICE OF DISCHARGE OF HAZARDOUS WASTE.

A. A user who commences to discharge of hazardous waste into the POTW shall notify the Industrial Pretreatment Engineer, the EPA Regional Waste Management Division Director, and the New Mexico Environment Department, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Section 261. The notification shall include the name of the hazardous waste as set forth in 40 CFR Section 261, the EPA hazardous waste number, and the type of discharge, such as continuous or batch. If the user discharges more than 100 kilograms of such waste per calendar month into the POTW, the notice shall also contain the following information to the extent the information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimate of the mass and concentration of the constituents in the wastestream discharged during that calendar month, and an estimate of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) month. Notices shall be given not later than 180 days after the discharge commences. Notice pursuant to this Section is required only once for each hazardous waste discharge. Notice of changed conditions shall also be given as required by §3-6-4. The notification requirements of this Section do not apply to pollutants that are subject

to categorical standards or pretreatment standards required by this Ordinance and that have been reported previously by the user pursuant to the self-monitoring requirements of §§3-6-1 and 3-6-2.

B. A user is exempt from the requirements of Paragraph A of this Section during a calendar month in which the user discharges not more than 15 kilograms of hazardous wastes into the POTW, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharges of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires notification one time. The user is not required to give notice in subsequent months during which the user discharges more than 15 kilograms of any hazardous wastes into the POTW.

C. If new regulations are promulgated under §3001 of the federal Resource Conservation and Recovery Act that identify additional characteristics of hazardous waste or that list any additional substances as a hazardous waste, the user shall notify Industrial Pretreatment Engineer, the EPA Regional Waste Management Division Director, and the New Mexico Environment Department of the discharge of such hazardous waste within ninety (90) days after the effective days of the regulations.

D. A user who is required to give notice pursuant to this Section shall certify that the user has a program in place to reduce the volume and toxicity of the hazardous wastes that are generated by the user to the degree that the user has determined to be economically practical.

E. This Section does not create a right to discharge any substance that is not otherwise permitted to be discharged into the POTW by this Section, a wastewater discharge permit, or any applicable federal or state law.

3-6-11 RECEIPT OF REPORTS.

Written reports shall be deemed to have been submitted on the date postmarked by the United States Postal Service. For reports that are not mailed, the reports shall be deemed to have been submitted on the date of receipt by the Industrial Pretreatment Engineer.

3-6-12 RECORDKEEPING.

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established pursuant to §3-2-3(C). Records shall include the date, exact place, method, and time of sampling, and the name of the person or persons taking the samples; the dates analyses were performed; the name of the person or persons who performed the analyses; the analytical techniques or methods used; and the results of the analyses. The records shall remain available for inspection by the Industrial Pretreatment Engineer for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Water Authority, or when the user has been specifically required by the Industrial Pretreatment Engineer to retain the records for a longer retention period.

3-6-13 CERTIFICATION STATEMENTS.

The following certification statement, signed by the authorized agent, is required to be signed and submitted by users who submit applications for wastewater discharge permits in accordance with §3-4-4; baseline monitoring reports pursuant to §3-6-1(B)(5); reports of compliance with the categorical pretreatment standard deadlines under §3-6-3; and periodic compliance reports required by §3-6-3(A) through (D).

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.

3-7. COMPLIANCE MONITORING

3-7-1 ENTRY FOR INSPECTION, SAMPLING, AND MONITORING.

A. The Industrial Pretreatment Engineer or designated representatives, shall have the right to enter the premises of any user to inspect and copy records that the user is required to maintain pursuant to this Ordinance, take samples of wastewater, inspect, test, and monitor pretreatment equipment and facilities and operations, determine whether the user is complying with the requirements of this Ordinance and the terms and conditions of the user's wastewater discharge permit or any order issued to the user by the Industrial Pretreatment Engineer, and take corrective action.

B. If the user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary advance arrangements with its security guards so that, upon presentation of identification, the Industrial Pretreatment Engineer will be permitted to enter the premises without delay.

C. The Industrial Pretreatment Engineer shall have the right to set up on the user's premises, or require the installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

D. The Industrial Pretreatment Engineer may require the user to install necessary monitoring equipment. The user shall keep and maintain sampling and monitoring equipment at all times in a safe and operating condition at the user's expense. All devices used to measure wastewater quality and quantity shall be calibrated according to the manufacturer's recommendation at least annually to ensure accuracy.

E. Any obstruction to safe and easy access to the equipment or facility that is to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Industrial Pretreatment Engineer and shall not be replaced. The cost of clearing such access shall be borne by the user.

F. Unreasonable delays in allowing the Industrial Pretreatment Engineer access to the user's premises is a violation of this Ordinance.

3-8. RECORDS

3-8-1 PUBLIC INSPECTION OF RECORDS.

All records, permit applications, reports, information and data obtained by the Water Authority pursuant to this Ordinance may be subject to public inspection and copying as provided in the New Mexico Inspection of Public Records Act (“IPRA”), NMSA 1978, Sections 14-2-1 et seq. as amended. A user’s request that information or a designated portion of the information provided to the Water Authority be treated as a trade secret or otherwise kept confidential shall be asserted at the time of submission of the information. If the Water Authority receives an IPRA request which implicates the designated information, the Water Authority’s sole responsibility regarding the user’s request for confidentiality shall be to notify the user of the IPRA request. It shall be the user’s responsibility to obtain legal protection from IPRA disclosure from a court of competent jurisdiction. Without exception, all information received by the Water Authority shall be made available upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the user furnishing the report.

3-9. ANNUAL REPORTING

3-9-1 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

Set forth in 40 CFR 403.8 (f)(2)(viii) the Industrial Pretreatment Engineer shall annually publish, in a newspaper of general circulation in Bernalillo County, New Mexico, a list of significant industrial users (or any industrial user which violates paragraphs C, D or H of this section) who, within the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and pretreatment requirements. Significant noncompliance means:

A. Chronic violations of wastewater discharge limits, defined as violations in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant during a six (6) month period exceed by any magnitude a numeric pretreatment standard or pretreatment requirement, including instantaneous limits;

B. Technical review criteria violations, defined as violations in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant

during a six (6) month period equal or exceed the product of the numeric pretreatment standard or retreatment requirement, including instantaneous limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a pretreatment standard or pretreatment requirement that the Industrial Pretreatment Engineer determines has caused, alone or in combination with other discharges, interference or pass through, or endangerment to the health of the Water Authority's personnel or the public;

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Industrial Pretreatment Engineer's exercise of his emergency authority to halt or prevent the discharge;

E. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order issued by the Industrial Pretreatment Engineer for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required report, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports of compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation, including violations of best management practices, which the Industrial Pretreatment Engineer determines will adversely affect the operation or implementation of the pretreatment program.

3-9-2 POTW REPORTS.

The Industrial Pretreatment Engineer shall annually provide the Regional Administrator of the EPA, Region VI with a report that describes the POTW's pretreatment program. The report shall include the following:

A. An updated list of significant industrial users, including the names and addresses of the significant industrial users or, alternatively, a list of deletions and additions keyed to a previously submitted list of significant industrial users with an

explanation of each deletion. The list shall identify the significant industrial users who are subject to national categorical pretreatment standards and specify which standards are applicable to each significant industrial user. The list shall indicate which significant industrial users are subject to local limits that are more stringent than the national categorical pretreatment standards. The Industrial Pretreatment Engineer shall also list the significant industrial users that are subject only to local limits;

B. A summary of the status of the compliance by significant industrial users over the reporting period;

C. A summary of compliance and enforcement activities, including inspections, conducted by the Industrial Pretreatment Engineer during the reporting period; and

D. Any other relevant information requested by the Regional Administrator of the EPA, Region VI.

3-10. ENFORCEMENT

3-10-1 NOTICE OF VIOLATION.

When the Industrial Pretreatment Engineer finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or order issued by the Industrial Pretreatment Engineer, or any pretreatment standard or pretreatment requirement, the Industrial Pretreatment Engineer may serve upon the user a written notice of violation. Within fifteen (15) days after receipt of the notice of violation, the user shall give the Industrial Pretreatment Engineer an explanation of the violation and a plan for correcting and preventing the violation, including the specific actions that may be required. Submission of a plan shall not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this Section shall limit the authority of the Industrial Pretreatment Engineer to take any action, including emergency actions or other enforcement actions, without first issuing a notice of violation.

3-10-2 CONCILIATION MEETINGS.

The Industrial Pretreatment Engineer may require users to attend a conciliation meeting to discuss a violation and the methods of correcting and preventing the cause of the violation. If the user and the Industrial Pretreatment Engineer agree upon appropriate remedial and preventative measures, they shall commit the terms of the agreement to

writing, together with a compliance schedule. The agreement and compliance schedule shall be incorporated as a supplemental condition of the user's wastewater discharge permit. If an agreement is not reached through the conciliation process within a time satisfactory to the Industrial Pretreatment Engineer and a violation continues, the Industrial Pretreatment Engineer may modify, suspend, or revoke the user's wastewater discharge permit.

3-10-3 CONSENT ORDERS.

The Industrial Pretreatment Engineer may enter into consent orders, assurances of compliance, and other similar documents that document an agreement between the Industrial Pretreatment Engineer and a user who is in noncompliance. The agreement shall include specific action to be taken by the user to correct the noncompliance and the time period within which the action will be taken. The agreement shall have the same force and effect as administrative orders issued pursuant to §§3-10-5 and 3-10-6.

3-10-4 SHOW CAUSE HEARINGS.

Prior to revoking or suspending a permit pursuant to §3-5-6 or issuing a Compliance Order, Cease and Desist Order or Termination of Discharge, the Industrial Pretreatment Engineer shall issue a notice of hearing and an order to show cause why the proposed enforcement action should not be taken. The notice of hearing shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such proposed enforcement action, and a request that the user appear at the hearing and show cause why the Industrial Pretreatment Engineer should not take the proposed enforcement action. The notice of hearing shall be served on the user by certified mail at least fifteen (15) days prior to the hearing. A show cause hearing shall be for the sole purpose of allowing the user to reply to the order to show cause and is not an evidentiary hearing.

3-10-5 COMPLIANCE ORDERS.

If the Industrial Pretreatment Engineer finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, an order issued by the Industrial Pretreatment Engineer, or any pretreatment standard or pretreatment requirement, the Industrial Pretreatment Engineer may issue an order to the user, stating

with reasonable specificity the nature of the violation or threatened violation and directing the user to come into compliance within a specified time. If the user does not come into compliance within the specified time, the Water Authority may disconnect the user's water and sewer service, unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may contain additional requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a pretreatment standard or pretreatment requirement, or 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.

3-10-6 CEASE AND DESIST ORDERS.

When the Industrial Pretreatment Engineer finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or order issued by the Industrial Pretreatment Engineer, or any pretreatment standard or pretreatment requirement, or that the user's prior violations are likely to recur, the Industrial Pretreatment Engineer may issue an order directing the user to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be necessary to properly address the 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.

3-10-7 ADMINISTRATIVE ASSESSMENTS.

A. If the Industrial Pretreatment Engineer finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, an order issued by the Industrial Pretreatment Engineer, or any pretreatment standard or pretreatment requirement, the Industrial Pretreatment Engineer may assess the user an amount not to exceed one thousand dollars (\$1,000.00) per day per violation. In the case

of monthly or other long-term average discharge limits, assessments shall be made for each day during the period of violation. In determining the amount of an assessment, the Industrial Pretreatment Engineer shall take into account all relevant circumstances, including the costs incurred by the Water Authority and the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, the corrective actions taken by the user, the compliance history of the user, good faith efforts of the user to comply with applicable requirements, and any other factors that bare on the nature and seriousness of the violation.

B. The Industrial Pretreatment Engineer may assess users for costs associated with the implementation and enforcement of this Ordinance, including but not limited to, monitoring and compliance expenses, sampling and testing expenses, laboratory analysis charges, attorneys' fees, court costs, and costs to cure or remedy damages to the POTW caused by a user's violation.

C. The Industrial Pretreatment Engineer may impose the assessments authorized by this Section on a user by mailing a notice of assessment by certified mail to the user. If the user fails to pay the assessment within thirty (30) days, the Industrial Pretreatment Engineer may file an action in a court of competent jurisdiction to recover the assessment, together with court costs and a reasonable attorney fee.

D. Payment of assessments imposed pursuant to this Section is a condition of service and failure to pay the assessments is grounds for suspension or termination of water and wastewater service to the user's premises.

E. The imposition of an administrative assessment shall not be a bar against, or a prerequisite for, taking any other action against the user.

3-10-8 EMERGENCY SUSPENSIONS.

A. The Industrial Pretreatment Engineer may immediately suspend a user's discharge, after informal notice to the user, if suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Industrial Pretreatment Engineer may immediately suspend a user's discharge, after notice and

opportunity to respond, if the discharge threatens to interfere with the operation of the POTW, or presents, or may present, an endangerment to the environment.

B. A user who has been notified of the suspension of its discharge shall immediately stop or eliminate the discharge. If the user fails to immediately comply with the suspension order, the Industrial Pretreatment Engineer may take such steps as are deemed necessary to stop the discharge, including the immediate severance of the sewer connection or water supply from the user's premises, to prevent or minimize damage to the POTW or the endangerment to any persons. The Industrial Pretreatment Engineer may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Industrial Pretreatment Engineer that the period of endangerment has passed, unless termination proceedings pursuant to §3-10-9 have been or will be initiated against the user.

C. A user who is responsible, in whole or in part, for any discharge that presents imminent endangerment to persons or the environment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken by the user to prevent any future occurrences, to the Industrial Pretreatment Engineer prior to the date of any show cause or termination hearing under §§3-10-4 or 3-10-9.

D. Nothing in this Section shall be interpreted as requiring a hearing prior to an emergency suspension under this Section.

3-10-9 TERMINATION OF DISCHARGE.

A. In addition to the revocation or suspension of a user's wastewater discharge permit pursuant to §3-5-6, a user who violates the following conditions is subject to termination of the user's wastewater and or water services:

- (1) Violation of a condition in a wastewater discharge permit;
- (2) Failure to accurately report the wastewater constituents and characteristics of the user's discharge;
- (3) Failure to report significant changes in the user's operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal to grant reasonable access to the user's premises for the purposes of records inspection, inspection equipment and facilities, monitoring, or sampling;

(5) Failure to pay assessments imposed by the Industrial Pretreatment Engineer pursuant to §3-10-7; or

(6) Violation of this Ordinance or pretreatment standards.

B. The Industrial Pretreatment Engineer shall give a user who has violated a condition listed in Paragraph A of this Section a notice of hearing and an order to show cause why the user's wastewater and water services should not be terminated. The service of a notice of termination of wastewater and water services on the user shall not be a bar to, or a prerequisite for, taking any other action against the user.

3-10-10 INJUNCTIVE RELIEF.

If the Industrial Pretreatment Engineer finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, an order issued by the Industrial Pretreatment Engineer, or any pretreatment standard or pretreatment requirement, the Industrial Pretreatment Engineer may petition the district court for the issuance of a temporary or permanent injunction, to enjoin the user from continuing the violation or to compel the user to take the action necessary to prevent the violation in the future. The Industrial Pretreatment Engineer may seek such legal or equitable relief as may be appropriate, including an order of the court that the user 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.

3-10-11 REMEDIES ARE NOT EXCLUSIVE.

The remedies provided for in this Ordinance are not exclusive. The Industrial Pretreatment Engineer may take any, all, or any combination of enforcement actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Water Authority's Enforcement Response Plan. The Industrial Pretreatment Engineer may take other action against a noncompliant user when the circumstances warrant. The Industrial Pretreatment Engineer may take more than one (1) enforcement action against a noncompliant user.

3-11. REVIEW OF ADMINISTRATIVE ACTIONS

3-11-1 ADMINISTRATIVE HEARINGS.

A. Any user who is adversely affected by a decision of the Industrial Pretreatment Engineer to deny, suspend, revoke a wastewater discharge permit, an order of the Industrial Pretreatment Engineer, or any other decision or ruling of the Industrial Pretreatment Engineer may request relief from the Executive Director or his/her designee by filing an appeal. An appeal shall be submitted to the Executive Director not later than fifteen (15) calendar days after date of the challenged decision or order. The appeal shall be in writing, identify the decision or order that the user objects to, and contain a statement of the reasons for the user's objection and the relief requested.

B. Upon receipt of an appeal, a filing fee of \$50 shall be added to the user's water bill and the Executive Director or his/her designee shall issue written notice by certified mail, return receipt requested, to user of the time and place of the appeal hearing.

C. All appeal hearings shall be recorded and the burden of proof shall be upon the Industrial Pretreatment Engineer to sustain the decision or order. At the hearing, the user and the Industrial Pretreatment Engineer shall each be given a reasonable opportunity to submit data, records and other documents and to present their views and arguments orally or in writing. The Executive Director or his/her designee shall make and preserve a complete record of the proceedings. Based on the evidence presented at the hearing, the Executive Director or his/her designee shall issue a written decision sustaining, modifying, or reversing the decision or order of the Industrial Pretreatment Engineer. The decision shall be in writing and shall contain a statement of the facts upon which the decision is based.

D. Neither the filing of a request for an appeal hearing nor the pendency of a hearing shall stay the decision or order of the Industrial Pretreatment Engineer or be a bar against, or a prerequisite for, taking any other action against the user.

3-11-2 JUDICIAL REVIEW

The exclusive remedy for parties dissatisfied with the decision of the Executive Director or his/her designee shall be the filing of a petition for a writ of certiorari with the State

District Court. The petition for review shall be limited to the record made at the administrative hearing held pursuant to this article.

3-12. SUPPLEMENTAL ENFORCEMENT ACTIONS

3-12-1 LIABILITY INSURANCE.

The Industrial Pretreatment Engineer may decline to issue or reissue a wastewater discharge permit to a user who has failed to comply with this Ordinance, a prior wastewater discharge permit, or an order issued by the Industrial Pretreatment Engineer, or any pretreatment standard or pretreatment requirement, until the user submits proof that it has obtained financial assurances sufficient to restore or repair any potential damage to the POTW caused by the user's discharge.

3-12-2 PAYMENT OF FEES AND ASSESSMENTS.

The Industrial Pretreatment Engineer may decline to issue or reissue a wastewater discharge permit to a user who has failed to pay any outstanding fees, damages, or assessments incurred by the user under this Ordinance, a prior wastewater discharge permit, or an order issued by the Industrial Pretreatment Engineer.

3-12-3 CONTRACTOR LISTING.

Users who have not achieved compliance with applicable pretreatment standards and pretreatment requirements are not eligible to receive a contractual award for the sale of goods or services to the Water Authority. Existing contracts for the sale of goods or services to the Water Authority held by a user who is found to be in significant noncompliance with pretreatment standards or pretreatment requirements may be terminated at the discretion of the Executive Director.

3-13. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

3-13-1 UPSET.

A. An upset is an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Paragraph C of this Section are satisfied.

B. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment

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

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

(1) An upset occurred and the user has identified the cause of the upset;

(2) The user's facility was being operated at the time of the upset in a prudent manner and in compliance with applicable operation and maintenance procedures; and

(3) The user submitted the following information to the Industrial Pretreatment Engineer within twenty-four (24) hours after becoming aware of the upset or, if the information is provided orally, a written submission was provided within five (5) days:

(4) A description of the indirect discharge and cause of noncompliance; The period of noncompliance, including the exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

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

(6) In any enforcement proceeding, the user who is seeking to establish the occurrence of an upset shall have the burden of proof.

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

E. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of the user's treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

3-13-2 LACK OF KNOWLEDGE.

A. Lack of knowledge is an affirmative defense to an enforcement action brought against it for noncompliance with §3-2-1(A) or §3-2-1(B)(3) through (7), and (9) through (18) if the user proves that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit immediately prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Water Authority was regularly in compliance with the NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

3-13-3 BYPASS.

A. For the purposes of this Section,

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

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

B. A user may allow any bypass to occur which does not violate pretreatment standards or pretreatment requirements, but only if the bypass is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of Paragraphs C and D of this Section.

C. Bypass Notification

(1) If a user knows in advance of the need for a bypass, it shall give notice to the Industrial Pretreatment Engineer at least ten (10) days before the date of the bypass, if possible.

(2) A user shall give oral notice to the Industrial Pretreatment Engineer of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours after the time the user becomes aware of the bypass, followed by a written report of the bypass within five (5) days after the date the user became aware of the bypass. The written report 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 Industrial Pretreatment Engineer may waive the written report on a case-by-case basis if the oral notice has been received within twenty-four (24) hours.

D. Bypass is prohibited, and the Industrial Pretreatment Engineer may take an enforcement action against a user for a bypass, unless:

(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 by Paragraph C of this Section.

E. The Industrial Pretreatment Engineer may approve an anticipated bypass, after considering its adverse effects, if the Industrial Pretreatment Engineer determines that it will meet the conditions listed in Paragraph D of this Section.

Section 2. SEVERABILITY CLAUSE. If any Section, paragraph, sentence, clause, work or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Water Authority hereby declares that it would have passed this Ordinance and each Section, paragraph, sentence, clause,

word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 3. EFFECTIVE DATE AND PUBLICATION. This Ordinance shall become effective July 5, 2021 after publication by title and general summary.