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# **MODEL PRETREATMENT ORDINANCE**

June 2007

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## Ordinance Key

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

**[Informational notes are in brackets in 10 point bold font]**

Optional requirements (not-required by 40 CFR Part 403) are labeled: “**{optional}**” in 10 point bold font.

1 MODEL PRETREATMENT ORDINANCE

2  
3 INTRODUCTION

4  
5 This Model Ordinance is based on one prepared by the United States Environmental  
6 Protection Agency (EPA), Office of Wastewater Management, Water Permits Division. It is for  
7 use by municipalities operating Publicly Owned Treatment Works (POTWs) that are required to  
8 develop pretreatment programs to regulate industrial discharges to their systems. The model  
9 ordinance should also be useful for communities with POTWs that are not *required* to implement  
10 a pretreatment program in drafting local ordinances to control nondomestic dischargers within  
11 their jurisdictions.

12  
13 A municipality should not adopt the model ordinance verbatim. Instead, the model  
14 ordinance should be used as a guide for adopting new or revised provisions of local law to  
15 implement and enforce a pretreatment program that fulfills requirements set out in the *Code of*  
16 *Federal Regulations* (CFR). The municipality must consider conditions at its POTW and consult  
17 State law to determine what adjustments might need to be made to the model ordinance and what  
18 provisions are authorized under State law. Many provisions in the model ordinance contain  
19 blanks or brackets; these indicate that the provision must be adapted to the POTW's  
20 circumstances. Also, bracketed notes in bold, 10 point print are provided for certain provisions,  
21 explaining issues the municipality must consider when crafting local provisions. To remove the  
22 line numbering go to *File > Page Setup > Layout*. Under *Preview* and *Apply to:* select *Whole*  
23 *document order*. Then click on *Line Numbers* and deselect *Add line numbering*.

24  
25 Some provisions in the model ordinance are not strictly required by the General  
26 Pretreatment Regulations (40 CFR Part 403); however, they have been included because they  
27 may be useful in ensuring that the municipality has adequate legal authority to effectively  
28 implement its local pretreatment program. In addition, the model ordinance includes additional,  
29 other provisions that, while included in the "Pretreatment Streamlining Rule (October 14, 2005,  
30 70 FR 60134) are not required elements of a local pretreatment program. These provisions are  
31 designated as optional, and are indicated as such in the ordinance by "{**optional**}". Furthermore,  
32 POTWs considering adopting the non-required provisions of the *Pretreatment Streamlining Rule*  
33 should verify with their Approval Authority to determine whether these optional items are  
34 available for implementation. Where a municipality either must adopt a provision similar to the  
35 one in the model ordinance or develop its own means of accomplishing that section's objective,  
36 the section is preceded by a bracketed note explaining the municipality's options. Other  
37 provisions, such as the model ordinance's statement of purpose and effective date, are necessary  
38 only to the extent that they are typical of any local ordinance.

39  
40 POTWs should be aware that any change to their pretreatment ordinance is considered a  
41 modification to their approved pretreatment program. All modifications to a POTW's approved  
42 pretreatment program must be submitted to the Approval Authority in accordance with 40 CFR  
43 403.18. It is EPA's expectation that States will review POTW ordinances to ensure that the  
44 ordinances are consistent with State law. POTWs should request this review from their States.  
45

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

48  
49 This EPA Model Pretreatment Ordinance also is available on EPA's Web site at  
50 <http://www.epa.gov/npdes/pretreatment> in Adobe PDF77 format.

51

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EPA MODEL PRETREATMENT ORDINANCE

ORDINANCE NO. [ ]

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the [City of ] and enables [the City] to comply with all applicable State and Federal laws, including the State Pretreatment Requirements (Tennessee Rule 1200-4-14), the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. **{Optional}** To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable [the City] to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits [or general permit **{optional}**]; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; [and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. **{Optional}** **[Note: Not all programs distribute the cost of the program through fees (some come out of the general budget) so Section 15 may not be applicable to your municipality and indicates that it is optional to have pretreatment charges and fees.]**

197 1.2 Administration

198

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

202

203 1.3 Abbreviations

204

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

206

207 BOD – Biochemical Oxygen Demand

208 BMP – Best Management Practice

209 BMR – Baseline Monitoring Report

210 CFR – *Code of Federal Regulations*

211 CIU – Categorical Industrial User

212 COD – Chemical Oxygen Demand

213 EPA – U.S. Environmental Protection Agency

214 gpd – gallons per day

215 IU – Industrial User

216 mg/l – milligrams per liter

217 NPDES – National Pollutant Discharge Elimination System

218 NSCIU – Non-Significant Categorical Industrial User {**optional**}

219 POTW – Publicly Owned Treatment Works

220 RCRA – Resource Conservation and Recovery Act

221 SIU – Significant Industrial User

222 SNC – Significant Noncompliance

223 TSS – Total Suspended Solids

224 U.S.C. – United States Code

225

226 1.4 Definitions

227

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

230

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

233

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

236

237 B. Approval Authority. The Tennessee Division of Water Pollution Control Director or  
238 his/her representative(s)

239

240 C. Authorized or Duly Authorized Representative of the User.

241

242 (1) If the User is a corporation:

243

244 (a) The president, secretary, treasurer, or a vice-president of the corporation in  
245 charge of a principal business function, or any other person who performs similar  
246 policy or decision-making functions for the corporation; or  
247

248 (b) The manager of one or more manufacturing, production, or operating  
249 facilities, provided the manager is authorized to make management decisions that  
250 govern the operation of the regulated facility including having the explicit or  
251 implicit duty of making major capital investment recommendations, and initiate  
252 and direct other comprehensive measures to assure long-term environmental  
253 compliance with environmental laws and regulations; can ensure that the  
254 necessary systems are established or actions taken to gather complete and  
255 accurate information for individual wastewater discharge permit [or general  
256 permit {optional}] requirements; and where authority to sign documents has been  
257 assigned or delegated to the manager in accordance with corporate procedures.  
258

259 (2) If the User is a partnership or sole proprietorship: a general partner or  
260 proprietor, respectively.  
261

262 (3) If the User is a Federal, State, or local governmental facility: a director or  
263 highest official appointed or designated to oversee the operation and performance  
264 of the activities of the government facility, or their designee.  
265

266 (4) The individuals described in paragraphs 1 through 3, above, may designate a  
267 Duly Authorized Representative if the authorization is in writing, the  
268 authorization specifies the individual or position responsible for the overall  
269 operation of the facility from which the discharge originates or having overall  
270 responsibility for environmental matters for the company, and the written  
271 authorization is submitted to [the City].  
272

273 D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the  
274 biochemical oxidation of organic matter under standard laboratory procedures for five (5)  
275 days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).  
276

277 E. Best Management Practices or BMPs means schedules of activities, prohibitions of  
278 practices, maintenance procedures, and other management practices to implement the  
279 prohibitions listed in Section 2.1 A and B [Tennessee Rule 1200-4-14-.05(1)(a) and (2)].  
280 BMPs include treatment requirements, operating procedures, and practices to control  
281 plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw  
282 materials storage. [Note: BMPs also include alternative means (i.e., management plans) of  
283 complying with, or in place of certain established categorical Pretreatment Standards and effluent  
284 limits.]  
285

- 286 F. Categorical Pretreatment Standard or Categorical Standard. Any regulation  
287 containing pollutant discharge limits promulgated by EPA in accordance with sections  
288 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of  
289 Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.  
290
- 291 G. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment  
292 Standard or categorical Standard.  
293
- 294 H. [City]. [The City of           ] or [the City Council of           ].  
295
- 296 I. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all  
297 compounds, both organic and inorganic, in water.  
298
- 299 J. Control Authority. The [City]  
300
- 301 K. Daily Maximum. The arithmetic average of all effluent samples for a pollutant  
302 (except pH) collected during a calendar day.  
303
- 304 L. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant  
305 during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the  
306 daily discharge is the total mass discharged over the course of the day. Where Daily  
307 Maximum Limits are expressed in terms of a concentration, the daily discharge is the  
308 arithmetic average measurement of the pollutant concentration derived from all  
309 measurements taken that day.  
310
- 311 M. Environmental Protection Agency or EPA. The U.S. Environmental Protection  
312 Agency or, where appropriate, the Regional Water Management Division Director, the  
313 Regional Administrator, or other duly authorized official of said agency.  
314
- 315 K. Existing Source. Any source of discharge that is not a “New Source.”  
316
- 317 L. Grab Sample. A sample that is taken from a wastestream without regard to the  
318 flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.  
319
- 320 M. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from  
321 any nondomestic source.  
322
- 323 N. Instantaneous Limit. The maximum concentration of a pollutant allowed to be  
324 discharged at any time, determined from the analysis of any discrete or composited  
325 sample collected, independent of the industrial flow rate and the duration of the sampling  
326 event. **[Note: If the POTW would like the flexibility to measure compliance with either a single grab  
327 sample or sample representative of the discharge day, the POTW should establish both Daily  
328 Maximum and Instantaneous Limits.]**  
329
- 330 O. Interference. A discharge that, alone or in conjunction with a discharge or discharges  
331 from other sources, inhibits or disrupts the POTW, its treatment processes or operations  
332 or its sludge processes, use or disposal; or exceeds the design capacity of the treatment

333 works or the collection system. *[Note: The definition of interference was changed in the TN State*  
334 *Regulation. All pretreatment programs must update the definition of interference.]*  
335

336 P. Local Limit. Specific discharge limits developed and enforced by [the City] upon  
337 industrial or commercial facilities to implement the general and specific discharge  
338 prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).  
339

340 Q. Medical Waste. Isolation wastes, infectious agents, human blood and blood products,  
341 pathological wastes, sharps, body parts, contaminated bedding, surgical wastes,  
342 potentially contaminated laboratory wastes, and dialysis wastes.  
343

344 R. Monthly Average. The sum of all “daily discharges” measured during a calendar  
345 month divided by the number of “daily discharges” measured during that month.  
346

347 S. Monthly Average Limit. The highest allowable average of “daily discharges” over a  
348 calendar month, calculated as the sum of all “daily discharges” measured during a  
349 calendar month divided by the number of “daily discharges” measured during that month.  
350

351 T. New Source.

352  
353 (1) Any building, structure, facility, or installation from which there is (or may  
354 be) a discharge of pollutants, the construction of which commenced after the  
355 publication of proposed Pretreatment Standards under section 307(c) of the Act  
356 that will be applicable to such source if such Standards are thereafter promulgated  
357 in accordance with that section, provided that:  
358

359 (a) The building, structure, facility, or installation is constructed at a site at which  
360 no other source is located; or

361 (b) The building, structure, facility, or installation totally replaces the process or  
362 production equipment that causes the discharge of pollutants at an Existing  
363 Source; or

364 (c) The production or wastewater generating processes of the building, structure,  
365 facility, or installation are substantially independent of an Existing Source at the  
366 same site. In determining whether these are substantially independent, factors  
367 such as the extent to which the new facility is integrated with the existing plant,  
368 and the extent to which the new facility is engaged in the same general type of  
369 activity as the Existing Source, should be considered.  
370

371 (2) Construction on a site at which an Existing Source is located results in a  
372 modification rather than a New Source if the construction does not create a new  
373 building, structure, facility, or installation meeting the criteria of Section (1)(b) or  
374 (c) above but otherwise alters, replaces, or adds to existing process or production  
375 equipment.  
376

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

379  
380 (a) Begun, or caused to begin, as part of a continuous onsite construction program  
381  
382 (i) any placement, assembly, or installation of facilities or equipment; or  
383 (ii) significant site preparation work including clearing, excavation, or  
384 removal of existing buildings, structures, or facilities which is necessary for  
385 the placement, assembly, or installation of new source facilities or equipment;  
386 or

387  
388 (b) Entered into a binding contractual obligation for the purchase of facilities or  
389 equipment which are intended to be used in its operation within a reasonable time.  
390 Options to purchase or contracts which can be terminated or modified without  
391 substantial loss, and contracts for feasibility, engineering, and design studies do  
392 not constitute a contractual obligation under this paragraph.

393  
394 U. Noncontact Cooling Water. Water used for cooling that does not come into direct  
395 contact with any raw material, intermediate product, waste product, or finished product.

396  
397 V. Pass Through. A discharge which exits the POTW into waters of the United States in  
398 quantities or concentrations which, alone or in conjunction with a discharge or discharges  
399 from other sources, is a cause of a violation of any requirement of [the City's] NPDES  
400 permit, including an increase in the magnitude or duration of a violation.

401  
402 W. Person. Any and all persons, including individuals, firms, partnerships, associations,  
403 public or private institutions, state and federal agencies, municipalities or political  
404 subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or  
405 private corporations or officers thereof, organized or existing under the laws of this or  
406 any state or country.

407  
408 X. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

409  
410 Y. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage,  
411 garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological  
412 materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar  
413 dirt, municipal, agricultural and industrial wastes, and certain characteristics of  
414 wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

415  
416 Z. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants,  
417 or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of,  
418 introducing such pollutants into the POTW. This reduction or alteration can be obtained  
419 by physical, chemical, or biological processes; by process changes; or by other means,  
420 except by diluting the concentration of the pollutants unless allowed by an applicable  
421 Pretreatment Standard.

422  
423 AA. Pretreatment Requirements. Any substantive or procedural requirement related to  
424 pretreatment imposed on a User, other than a Pretreatment Standard.

425  
426 BB. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited  
427 discharge standards, categorical Pretreatment Standards, and Local Limits.  
428

429 CC. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions  
430 against the discharge of certain substances; these prohibitions appear in Section 2.1 of  
431 this ordinance.  
432

433 DD. Publicly Owned Treatment Works or POTW. A treatment works, as defined by  
434 section 212 of the Act (33 U.S.C. section 1292), which is owned by [the City]. This  
435 definition includes any devices or systems used in the collection, storage, treatment,  
436 recycling, and reclamation of sewage or industrial wastes of a liquid nature and any  
437 conveyances, which convey wastewater to a treatment plant.  
438

439 EE. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical  
440 toilets, campers, trailers, and septic tanks.  
441

442 FF. Sewage. Human excrement and gray water (household showers, dishwashing  
443 operations, etc.).  
444

445 GG. Significant Industrial User (SIU).  
446

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

449 (1) An Industrial User subject to categorical Pretreatment Standards; or  
450  
451

452 (2) An Industrial User that:  
453

454 (a) Discharges an average of twenty-five thousand (25,000) gpd or more of  
455 process wastewater to the POTW (excluding sanitary, noncontact cooling and  
456 boiler blowdown wastewater);

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

460 (c) Is designated as such by [the City] on the basis that it has a reasonable  
461 potential for adversely affecting the POTW's operation or for violating any  
462 Pretreatment Standard or Requirement.  
463

464 **{Optional} [Note: The following provision may be included in the local ordinances only if authorized under**  
465 **State law. Criteria for reduced reporting must also include any criteria defined in applicable State**  
466 **requirements.]**  
467

468 (3) The [City] may determine that an Industrial User subject to categorical  
469 Pretreatment Standards is a Non-Significant Categorical Industrial User rather  
470 than a Significant Industrial User on a finding that the Industrial User never  
471 discharges more than 100 gallons per day (gpd) of total categorical wastewater

472 (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless  
473 specifically included in the Pretreatment Standard) and the following conditions  
474 are met:

475  
476 (a) The Industrial User, prior to [City's] finding, has consistently complied with  
477 all applicable categorical Pretreatment Standards and Requirements;

478 (b) The Industrial User annually submits the certification statement required in  
479 Section 6.14 B [see Tennessee Rule 1200-4-14-.12(17)], together with any  
480 additional information necessary to support the certification statement; and

481 (c) The Industrial User never discharges any untreated concentrated wastewater.  
482

483 (4) Upon a finding that a User meeting the criteria in Subsection (2) of this part  
484 has no reasonable potential for adversely affecting the POTW's operation or for  
485 violating any Pretreatment Standard or Requirement, [the City] may at any time,  
486 on its own initiative or in response to a petition received from an Industrial User,  
487 and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f),  
488 determine that such User should not be considered a Significant Industrial User.  
489

490 HH. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which  
491 could cause a violation of the prohibited discharge standards in Section 2.1 of this  
492 ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature,  
493 including but not limited to an accidental spill or a non-customary batch Discharge,  
494 which has a reasonable potential to cause Interference or Pass Through, or in any other  
495 way violate the POTW's regulations, Local Limits or Permit conditions.  
496

497 II. Storm Water. Any flow occurring during or following any form of natural  
498 precipitation, and resulting from such precipitation, including snowmelt.  
499

500 JJ. [Superintendent]. The person designated by [the City] to supervise the operation of  
501 the POTW, and who is charged with certain duties and responsibilities by this ordinance.  
502 The term also means a Duly Authorized Representative of the [Superintendent].  
503

504 KK. Total Suspended Solids or Suspended Solids. The total suspended matter that floats  
505 on the surface of, or is suspended in, water, wastewater, or other liquid, and that is  
506 removable by laboratory filtering.  
507

508 LL. User or Industrial User. A source of indirect discharge.  
509

510 MM. Wastewater. Liquid and water-carried industrial wastes and sewage from  
511 residential dwellings, commercial buildings, industrial and manufacturing facilities, and  
512 institutions, whether treated or untreated, which are contributed to the POTW.  
513

514 NN. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which  
515 is designed to provide treatment of municipal sewage and industrial waste.  
516

517 SECTION 2—GENERAL SEWER USE REQUIREMENTS

518

519 2.1 Prohibited Discharge Standards

520

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

526

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

529

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

533

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

536

537 **[Note: The municipality should be aware that the General Pretreatment Regulations at 40 CFR 403.5(b) do**  
538 **not set an upper pH limit, although many municipalities find such a limit necessary or useful. If the**  
539 **municipality wishes to set an upper pH limit, it should insert one in this Section. 40 CFR 261.22 established**  
540 **that wastes discharged with a pH over 12.5 are considered corrosive hazardous wastes and therefore, the**  
541 **POTW would need to comply with applicable requirements under the Resource Conservation and Recovery**  
542 **Act and implementing regulations for Treatment, Storage, and Disposal facilities if such wastes are delivered**  
543 **to the POTW by truck, rail, or dedicated pipe. Accordingly, if the POTW chooses to prohibit discharge of**  
544 **characteristic hazardous wastes, the upper pH limit must be no greater than 12.5.]**

545

546 (3) Solid or viscous substances in amounts which will cause obstruction of the  
547 flow in the POTW resulting in Interference [but in no case solids greater  
548 than \_\_\_\_ inch(es) (\_\_\_\_”) or \_\_\_\_ centimeter(s) (\_\_\_\_ cm) in any  
549 dimension];

550

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

554

555 (5) Wastewater having a temperature greater than [\_\_\_\_ degrees F (\_\_\_\_ degrees  
556 C)], or which will inhibit biological activity in the treatment plant resulting in  
557 Interference, but in no case wastewater which causes the temperature at the  
558 introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

559

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

562

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

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

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

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair; **{optional}**

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

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

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

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

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

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

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

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

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

612  
613 Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored  
614 in such a manner that they could be discharged to the POTW.

615  
616 2.2 National Categorical Pretreatment Standards  
617

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

620  
621 **[Note: State procedures for incorporation by reference must be followed. EPA regulations at 40 CFR 403.13**  
622 **authorize a CIU to obtain a variance from a categorical Pretreatment Standard if the CIU can prove,**  
623 **pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge**  
624 **are fundamentally different from the factors considered by EPA when developing the categorical**  
625 **Pretreatment Standard. The POTW might need to include a provision authorizing it to incorporate or**  
626 **recognize revised Standards if the User has obtained an FDF variance from EPA on the basis of 40 CFR**  
627 **403.13. That CIU’s Standards would be replaced by the revised FDF variance Standard.]**  
628

629 A. Where a categorical Pretreatment Standard is expressed only in terms of either the  
630 mass or the concentration of a pollutant in wastewater, [the Superintendent] may impose  
631 equivalent concentration or mass limits in accordance with Section 2.2E and 2.2F.  
632 **{Optional} [Note: See 40 CFR 403.6(c)]**  
633

634 B. When the limits in a categorical Pretreatment Standard are expressed only in terms of  
635 mass of pollutant per unit of production, the [Superintendent] may convert the limits to  
636 equivalent limitations expressed either as mass of pollutant discharged per day or effluent  
637 concentration for purposes of calculating effluent limitations applicable to individual  
638 Industrial Users. **{Optional} [Note: See 40 CFR 403.6(c)(2)]**  
639

640 C. When wastewater subject to a categorical Pretreatment Standard is mixed with  
641 wastewater not regulated by the same Standard, [the Superintendent] shall impose an  
642 alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).  
643

644 **{Optional}[Note: The following provision may be included in the local ordinance at the**  
645 **municipality’s discretion.]**  
646

647 D. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in  
648 accordance with the following paragraphs of this Section. **[Note: See 40 CFR 403.15]**  
649

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

657 (2) Criteria.

658 a. Either (i) The applicable categorical Pretreatment Standards contained in 40  
659 CFR subchapter N specifically provide that they shall be applied on a net

- 660 basis; or (ii) The Industrial User demonstrates that the control system it  
661 proposes or uses to meet applicable categorical Pretreatment Standards would,  
662 if properly installed and operated, meet the Standards in the absence of  
663 pollutants in the intake waters.
- 664 b. Credit for generic pollutants such as biochemical oxygen demand (BOD),  
665 total suspended solids (TSS), and oil and grease should not be granted unless  
666 the Industrial User demonstrates that the constituents of the generic measure  
667 in the User's effluent are substantially similar to the constituents of the  
668 generic measure in the intake water or unless appropriate additional limits are  
669 placed on process water pollutants either at the outfall or elsewhere.
- 670 c. Credit shall be granted only to the extent necessary to meet the applicable  
671 categorical Pretreatment Standard(s), up to a maximum value equal to the  
672 influent value. Additional monitoring may be necessary to determine  
673 eligibility for credits and compliance with Standard(s) adjusted under this  
674 Section.
- 675 d. Credit shall be granted only if the User demonstrates that the intake water is  
676 drawn from the same body of water as that into which the POTW discharges.  
677 The [City] may waive this requirement if it finds that no environmental  
678 degradation will result.

679  
680 **{Optional} [Note: The following optional provision may be included in the local ordinances only if authorized**  
681 **under State law.]**  
682

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

- 689  
690 (1) To be eligible for equivalent mass limits, the Industrial User must:
- 691 a. Employ, or demonstrate that it will employ, water conservation methods and  
692 technologies that substantially reduce water use during the term of its  
693 individual wastewater discharge permit;
- 694 b. Currently use control and treatment technologies adequate to achieve  
695 compliance with the applicable categorical Pretreatment Standard, and not  
696 have used dilution as a substitute for treatment;
- 697 c. Provide sufficient information to establish the facility's actual average daily  
698 flow rate for all wastestreams, based on data from a continuous effluent flow  
699 monitoring device, as well as the facility's long-term average production rate.  
700 Both the actual average daily flow rate and the long-term average production  
701 rate must be representative of current operating conditions;
- 702 d. Not have daily flow rates, production levels, or pollutant levels that vary so  
703 significantly that equivalent mass limits are not appropriate to control the  
704 Discharge; and

- 705 e. Have consistently complied with all applicable categorical Pretreatment  
 706 Standards during the period prior to the Industrial User’s request for  
 707 equivalent mass limits.  
 708 (2) An Industrial User subject to equivalent mass limits must:  
 709 a. Maintain and effectively operate control and treatment technologies adequate  
 710 to achieve compliance with the equivalent mass limits;  
 711 b. Continue to record the facility’s flow rates through the use of a continuous  
 712 effluent flow monitoring device;  
 713 c. Continue to record the facility’s production rates and notify the  
 714 [Superintendent] whenever production rates are expected to vary by more than  
 715 20 percent from its baseline production rates determined in paragraph  
 716 2.2F(1)(c) of this Section. Upon notification of a revised production rate, the  
 717 [Superintendent] will reassess the equivalent mass limit and revise the limit as  
 718 necessary to reflect changed conditions at the facility; and  
 719 d. Continue to employ the same or comparable water conservation methods and  
 720 technologies as those implemented pursuant to paragraphs 2.2E(1)(a) of this  
 721 Section so long as it discharges under an equivalent mass limit.  
 722  
 723 (3) When developing equivalent mass limits, the [Superintendent]:  
 724 a. Will calculate the equivalent mass limit by multiplying the actual average  
 725 daily flow rate of the regulated process(es) of the Industrial User by the  
 726 concentration-based Daily Maximum and Monthly Average Standard for the  
 727 applicable categorical Pretreatment Standard and the appropriate unit  
 728 conversion factor;  
 729 b. Upon notification of a revised production rate, will reassess the equivalent  
 730 mass limit and recalculate the limit as necessary to reflect changed conditions  
 731 at the facility; and  
 732 c. May retain the same equivalent mass limit in subsequent individual  
 733 wastewater discharger permit terms if the Industrial User’s actual average  
 734 daily flow rate was reduced solely as a result of the implementation of water  
 735 conservation methods and technologies, and the actual average daily flow  
 736 rates used in the original calculation of the equivalent mass limit were not  
 737 based on the use of dilution as a substitute for treatment pursuant to Section  
 738 2.6. The Industrial User must also be in compliance with Section 13.3  
 739 regarding the prohibition of bypass.]  
 740

741 **{Optional} [Note: The following optional provisions (F–I) may be included in the local ordinances only if**  
 742 **authorized under State law.]**  
 743

744 F. [The Superintendent] may convert the mass limits of the categorical Pretreatment  
 745 Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of  
 746 calculating limitations applicable to individual Industrial Users. The conversion is at the  
 747 discretion of the [Superintendent].  
 748

749 **[Note: When converting such limits to concentration limits, the [Superintendent] will use the**  
 750 **concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that**  
 751 **dilution is not being substituted for treatment as prohibited by Section 2.6 of this ordinance (see 40**  
 752 **CFR 403.6(d)). In addition, the [Superintendent] will document how the equivalent limits were**

753 **derived for any changes from concentration to mass limits, or vice versa, and make this information**  
754 **publicly available (see 40 CFR 403.6(c)(7)).]**

755  
756 G. Once included in its permit, the Industrial User must comply with the equivalent  
757 limitations developed in this Section (2.2) in lieu of the promulgated categorical  
758 Standards from which the equivalent limitations were derived. **[Note: See 40 CFR**  
759 **403.6(c)(7)]**

760  
761 H. Many categorical Pretreatment Standards specify one limit for calculating maximum  
762 daily discharge limitations and a second limit for calculating maximum Monthly  
763 Average, or 4-day average, limitations. Where such Standards are being applied, the same  
764 production or flow figure shall be used in calculating both the average and the maximum  
765 equivalent limitation. **[Note: See 40 CFR 403.6(c)(8)]**

766  
767 I. Any Industrial User operating under a permit incorporating equivalent mass or  
768 concentration limits calculated from a production-based Standard shall notify the  
769 [Superintendent] within two (2) business days after the User has a reasonable basis to  
770 know that the production level will significantly change within the next calendar month.  
771 Any User not notifying the [Superintendent] of such anticipated change will be required  
772 to meet the mass or concentration limits in its permit that were based on the original  
773 estimate of the long term average production rate. **[Note: See 40 CFR 403.6(c)(9)]**

774  
775 2.3 State Pretreatment Standards

776  
777 Users must comply with [State Pretreatment Standards] codified at [insert appropriate cite to  
778 State statute or law].

779  
780 2.4 Local Limits

781  
782 **[Note: Municipalities need to establish limits for some or all of the pollutants listed below, and might need to**  
783 **set limits for pollutants not listed below. The municipality may also establish Best Management Practices**  
784 **(BMPs) to control certain pollutants. The municipality will provide public notice and an opportunity to**  
785 **respond to interested parties (40 CFR 403.5(c)(3)). This requirement applies whether Local Limits are set by**  
786 **ordinance or on a case-by-case basis.]**

787  
788 A. The [Superintendent] is authorized to establish Local Limits pursuant to Tennessee  
789 Rule 1200-4-14-.05(3).

790  
791 **[Note: The municipality may set limits as instantaneous maximums or for other durations (e.g., Daily**  
792 **Maximum or Monthly Average Limits). The municipality should define these durations in the definition**  
793 **Section.]**

794  
795 B. The following pollutant limits are established to protect against Pass Through and  
796 Interference. No person shall discharge wastewater containing in excess of the following  
797 [insert the duration, for example Daily Maximum Limit].

798  
799 **[Note: The approach of charging only for the “excess” loading presumes the standard sewer charges already**  
800 **provide appropriate payment for concentrations up to domestic strength. Many POTWs establish surcharges**  
801 **for conventional pollutants amenable to treatment, such as BOD<sub>5</sub> and TSS. Ordinances should clearly**

802 distinguish between surcharges and Local Limits. Surcharges are additional charges to recover the cost to  
 803 treat wastewater that are typically assessed when discharge concentrations are above defined values, typically  
 804 above domestic wastewater. Enforceable Local Limits for conventional pollutants are established where  
 805 there is potential for these pollutants to be discharged to the POTW in quantities or concentrations that could  
 806 exceed the POTW's plant capacity. When IUs discharge in excess of a Local Limit, they are subject to  
 807 enforcement actions.]

808		
809	[	] mg/l ammonia
810	[	] mg/l arsenic
811	[	] mg/l BOD <sub>5</sub>
812	[	] mg/l cadmium
813	[	] mg/l chromium
814	[	] mg/l copper
815	[	] mg/l cyanide
816	[	] mg/l lead
817	[	] mg/l mercury
818	[	] mg/l molybdenum
819	[	] mg/l nitrogen (total)
820	[	] mg/l nickel
821	[	] mg/l oil and/or grease [Note: Oil and/or grease limits should be defined as a
822		polar, nonpolar, or total oil and grease limits.]
823	[	] mg/l selenium
824	[	] mg/l silver
825	[	] mg/l total phenols
826	[	] mg/l total suspended solids
827	[	] mg/l zinc

828  
 829 The above limits apply at the point where the wastewater is discharged to the POTW. All  
 830 concentrations for metallic substances are for total metal unless indicated otherwise. [The  
 831 Superintendent] may impose mass limitations in addition to the concentration-based limitations  
 832 above.

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

838  
 839 {Optional} [Note: The following optional provision may be included in the local ordinances only if authorized  
 840 under State law.]

841  
 842 C. [The Superintendent] may develop Best Management Practices (BMPs), by ordinance  
 843 or in individual wastewater discharge permits [or general permits {optional}], to  
 844 implement Local Limits and the requirements of Section 2.1.  
 845

846 2.5 [City's] Right of Revision

847  
848 The [City] reserves the right to establish, by ordinance or in individual wastewater discharge  
849 permits [or in general permits {optional}], more stringent Standards or Requirements on  
850 discharges to the POTW consistent with the purpose of this ordinance.

851  
852 2.6 Dilution

853  
854 No User shall ever increase the use of process water, or in any way attempt to dilute a discharge,  
855 as a partial or complete substitute for adequate treatment to achieve compliance with a discharge  
856 limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement.  
857 [The Superintendent] may impose mass limitations on Users who are using dilution to meet  
858 applicable Pretreatment Standards or Requirements, or in other cases when the imposition of  
859 mass limitations is appropriate.

860  
861 SECTION 3—PRETREATMENT OF WASTEWATER

862  
863 3.1 Pretreatment Facilities

864  
865 Users shall provide wastewater treatment as necessary to comply with this ordinance and shall  
866 achieve compliance with all categorical Pretreatment Standards, Local Limits, and the  
867 prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA,  
868 the State, or [the Superintendent], whichever is more stringent. Any facilities necessary for  
869 compliance shall be provided, operated, and maintained at the User's expense. Detailed plans  
870 describing such facilities and operating procedures shall be submitted to [the Superintendent] for  
871 review, and shall be acceptable to [the Superintendent] before such facilities are constructed.  
872 The review of such plans and operating procedures shall in no way relieve the User from the  
873 responsibility of modifying such facilities as necessary to produce a discharge acceptable to [the  
874 City] under the provisions of this ordinance.

875  
876 3.2 Additional Pretreatment Measures

877  
878 {Optional}[Note: The following provisions are optional. The municipality may include provisions authorizing  
879 it to do the following.]

880  
881 A. Whenever deemed necessary, [the Superintendent] may require Users to restrict their  
882 discharge during peak flow periods, designate that certain wastewater be discharged only  
883 into specific sewers, relocate and/or consolidate points of discharge, separate sewage  
884 wastestreams from industrial wastestreams, and such other conditions as may be  
885 necessary to protect the POTW and determine the User's compliance with the  
886 requirements of this ordinance.

887  
888 B. [The Superintendent] may require any person discharging into the POTW to install  
889 and maintain, on their property and at their expense, a suitable storage and flow-control  
890 facility to ensure equalization of flow. An individual wastewater discharge permit [or a  
891 general permit {optional}] may be issued solely for flow equalization.

892

893 **[Note: The City should modify this Section to conform to design, maintenance, inspection and BMP**  
894 **requirements for oil and grease control.]**  
895

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

905  
906 D. Users with the potential to discharge flammable substances may be required to install  
907 and maintain an approved combustible gas detection meter.  
908

909 3.3 Accidental Discharge/Slug Discharge Control Plans  
910

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

917  
918 A. Description of discharge practices, including nonroutine batch discharges;  
919

920 B. Description of stored chemicals;  
921

922 C. Procedures for immediately notifying [the Superintendent] of any accidental or Slug  
923 Discharge, as required by Section 6.6 of this ordinance; and  
924

925 D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such  
926 procedures include, but are not limited to, inspection and maintenance of storage areas,  
927 handling and transfer of materials, loading and unloading operations, control of plant site  
928 runoff, worker training, building of containment structures or equipment, measures for  
929 containing toxic organic pollutants, including solvents, and/or measures and equipment  
930 for emergency response.  
931

932 3.4 Hauled Wastewater  
933

934 **[Note: The municipality will ensure that hauled industrial waste is adequately regulated and should take**  
935 **measures to ensure that haulers of septic tank waste are not introducing industrial waste to the POTW. The**  
936 **following is one possible means of regulating hauled waste.]**  
937

938 A. Septic tank waste may be introduced into the POTW only at locations designated by  
939 [the Superintendent], and at such times as are established by [the Superintendent]. Such

940 waste shall not violate Section 2 of this ordinance or any other requirements established  
941 by [the City]. [The Superintendent] may require septic tank waste haulers to obtain  
942 individual wastewater discharge permits [or general permits {**optional**}].

943  
944 B. [The Superintendent] may require haulers of industrial waste to obtain individual  
945 wastewater discharge permits [or general permits {**optional**}]. [The Superintendent] may  
946 require generators of hauled industrial waste to obtain individual wastewater discharge  
947 permits [or general permits {**optional**}]. [The Superintendent] also may prohibit the  
948 disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to  
949 all other requirements of this ordinance.

950  
951 C. Industrial waste haulers may discharge loads only at locations designated by [the  
952 Superintendent]. No load may be discharged without prior consent of [the  
953 Superintendent]. [The Superintendent] may collect samples of each hauled load to ensure  
954 compliance with applicable Standards. [The Superintendent] may require the industrial  
955 waste hauler to provide a waste analysis of any load prior to discharge.

956  
957 D. Industrial waste haulers must provide a waste-tracking form for every load. This  
958 form shall include, at a minimum, the name and address of the industrial waste hauler,  
959 permit number, truck identification, names and addresses of sources of waste, and  
960 volume and characteristics of waste. The form shall identify the type of industry, known  
961 or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

962  
963 SECTION 4—INDIVIDUAL WASTEWATER DISCHARGE PERMITS [and GENERAL  
964 PERMITS {**optional**}]

965  
966 [Note: The municipality must control SIUs through individual wastewater discharge [or general {**optional**}]  
967 permits. Where provided by State law, the Control Authority may establish the authority to use a general  
968 permit where certain conditions listed in Section 4.6 (40 CFR 403.8(f)(1)(iii)) are met.]

969  
970 4.1 Wastewater Analysis

971  
972 When requested by [the Superintendent], a User must submit information on the nature and  
973 characteristics of its wastewater within [ ( )] days of the request. [The Superintendent] is  
974 authorized to prepare a form for this purpose and may periodically require Users to update this  
975 information.

976  
977 4.2 Individual Wastewater Discharge Permit [and General Permit {**optional**}] Requirement

978  
979 A. No Significant Industrial User shall discharge wastewater into the POTW without  
980 first obtaining an individual wastewater discharge permit [or a general permit {**optional**}]  
981 from [the Superintendent], except that a Significant Industrial User that has filed a timely  
982 application pursuant to Section 4.3 of this ordinance may continue to discharge for the  
983 time period specified therein.

984

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

988  
 989 C. Any violation of the terms and conditions of an individual wastewater discharge  
 990 permit [or a general permit {optional}] shall be deemed a violation of this ordinance and  
 991 subjects the wastewater discharge permittee to the sanctions set out in Sections 10  
 992 through 12 of this ordinance. Obtaining an individual wastewater discharge permit [or a  
 993 general permit {optional}] does not relieve a permittee of its obligation to comply with all  
 994 Federal and State Pretreatment Standards or Requirements or with any other requirements  
 995 of Federal, State, and local law.

997 4.3 Individual Wastewater Discharge [and General {optional}] Permitting: Existing Connections  
 998

999 Any User required to obtain an individual wastewater discharge permit [or a general permit  
 1000 {optional}] who was discharging wastewater into the POTW prior to the effective date of this  
 1001 ordinance and who wishes to continue such discharges in the future, shall, within [\_\_\_\_\_  
 1002 (\_\_\_\_)] days after said date, apply to [the Superintendent] for an individual wastewater discharge  
 1003 permit [or a general permit {optional}] in accordance with Section 4.5 of this ordinance, and shall  
 1004 not cause or allow discharges to the POTW to continue after [\_\_\_\_\_  
 1005 (\_\_\_\_)] days of the effective date of this ordinance except in accordance with an individual wastewater discharge  
 1006 permit [or a general permit {optional}] issued by [the Superintendent].  
 1007

1008 4.4 Individual Wastewater Discharge [and General {optional}] Permitting: New Connections  
 1009

1010 Any User required to obtain an individual wastewater discharge permit [or a general permit  
 1011 {optional}] who proposes to begin or recommence discharging into the POTW must obtain such  
 1012 permit prior to the beginning or recommencing of such discharge. An application for this  
 1013 individual wastewater discharge permit [or general permit {optional}], in accordance with Section  
 1014 4.5 of this ordinance, must be filed at least [\_\_\_\_\_  
 1015 (\_\_\_\_)] days prior to the date upon which  
 1016 any discharge will begin or recommence.

1017 4.5 Individual Wastewater Discharge [and General {optional}] Permit Application Contents  
 1018

1019 **[Note: This Section lists the information IUs must provide in their application for an individual wastewater  
 1020 discharge permit or general permit (control mechanism). Permits may be individual wastewater discharge  
 1021 permits or general permits (See Section 4.6) if allowed by the POTW (Control Authority). POTWs might  
 1022 want to modify the type of information required in permit applications on the basis of the size and type of IU  
 1023 and the type of permit (individual wastewater discharge permit vs. general permit.) The list of information to  
 1024 be submitted in a permit application has been expanded in this version of the model ordinance to include the  
 1025 new general permit application requirements (40 CFR 403.8(f)(1)(iii)(A)(2)) and to capture the baseline  
 1026 monitoring report (BMR) information which was previously in Section 6.1B (40 CFR 403.12(b)(1)-(7)). The  
 1027 BMR Section (6.1B) currently refers back to this (Section 4.5) regarding information that must be submitted  
 1028 in the BMR.]**  
 1029

1030 A. All Users required to obtain an individual wastewater discharge permit [or a general  
 1031 permit {optional}] must submit a permit application. Users that are eligible may request a

- 1032 general permit under Section 4.6. [The Superintendent] may require Users to submit all  
1033 or some of the following information as part of a permit application:  
1034
- 1035 (1) Identifying Information.
    - 1036 a. The name and address of the facility, including the name of the operator and  
1037 owner.
    - 1038 b. Contact information, description of activities, facilities, and plant production  
1039 processes on the premises;
  - 1040
  - 1041 (2) Environmental Permits. A list of any environmental control permits held by  
1042 or for the facility.  
1043
  - 1044 (3) Description of Operations.
    - 1045 a. A brief description of the nature, average rate of production (including each  
1046 product produced by type, amount, processes, and rate of production), and  
1047 standard industrial classifications of the operation(s) carried out by such User.  
1048 This description should include a schematic process diagram, which indicates  
1049 points of discharge to the POTW from the regulated processes.
    - 1050 b. Types of wastes generated, and a list of all raw materials and chemicals used  
1051 or stored at the facility which are, or could accidentally or intentionally be,  
1052 discharged to the POTW;
    - 1053 c. Number and type of employees, hours of operation, and proposed or actual  
1054 hours of operation;
    - 1055 d. Type and amount of raw materials processed (average and maximum per day);
    - 1056 e. Site plans, floor plans, mechanical and plumbing plans, and details to show all  
1057 sewers, floor drains, and appurtenances by size, location, and elevation, and  
1058 all points of discharge;
  - 1059
  - 1060 (4) Time and duration of discharges;
  - 1061
  - 1062 (5) The location for monitoring all wastes covered by the permit;
  - 1063
  - 1064 (6) Flow Measurement. Information showing the measured average daily and  
1065 maximum daily flow, in gallons per day, to the POTW from regulated process  
1066 streams and other streams, as necessary, to allow use of the combined  
1067 wastestream formula set out in Section 2.2C (Tennessee Rule 1200-4-14-.06(5)).  
1068
  - 1069 (7) Measurement of Pollutants.
    - 1070 a. The categorical Pretreatment Standards applicable to each regulated process  
1071 and any new categorically regulated processes for Existing Sources.
    - 1072 b. The results of sampling and analysis identifying the nature and concentration,  
1073 and/or mass, where required by the Standard or by [the Superintendent], of  
1074 regulated pollutants in the discharge from each regulated process.
    - 1075 c. Instantaneous, Daily Maximum, and long-term average concentrations, or  
1076 mass, where required, shall be reported.

- 1077 d. The sample shall be representative of daily operations and shall be analyzed in  
1078 accordance with procedures set out in Section 6.10 of this ordinance. Where  
1079 the Standard requires compliance with a BMP or pollution prevention  
1080 alternative, the User shall submit documentation as required by the  
1081 [Superintendent] or the applicable Standards to determine compliance with the  
1082 Standard.  
1083 e. Sampling must be performed in accordance with procedures set out in Section  
1084 6.11 of this ordinance.  
1085

1086 (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring  
1087 waiver) for a pollutant neither present nor expected to be present in the discharge  
1088 based on Section 6.4 B [2300-4-14-.12(5)(b)]. **{Optional} [Note: This provision is  
1089 required only if the municipality has incorporated Section 6.4B into its ordinance.]**  
1090

1091 (9) Any request to be covered by a general permit based on Section 4.6. **{Optional}**  
1092 **[Note: This provision is only required if the municipality has incorporated Section 4.6 into  
1093 its ordinance.]**  
1094

1095 (10) Any other information as may be deemed necessary by [the Superintendent]  
1096 to evaluate the permit application.  
1097

1098 B. Incomplete or inaccurate applications will not be processed and will be returned to  
1099 the User for revision.  
1100

1101 4.6 Wastewater Discharge Permitting: General Permits **{Optional}**  
1102

1103 A. At the discretion of the [Superintendent], the [Superintendent] may use general  
1104 permits to control SIU discharges to the POTW if the following conditions are met. All  
1105 facilities to be covered by a general permit must:

- 1106 (1) Involve the same or substantially similar types of operations;  
1107 (2) Discharge the same types of wastes;  
1108 (3) Require the same effluent limitations;  
1109 (4) Require the same or similar monitoring; and  
1110 (5) In the opinion of the [Superintendent], are more appropriately controlled  
1111 under a general permit than under individual wastewater discharge permits.  
1112

1113 B. To be covered by the general permit, the SIU must file a written request for coverage  
1114 that identifies its contact information, production processes, the types of wastes  
1115 generated, the location for monitoring all wastes covered by the general permit, any  
1116 requests in accordance with Section 6.4 B for a monitoring waiver for a pollutant neither  
1117 present nor expected to be present in the Discharge, and any other information the POTW  
1118 deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be  
1119 present in the discharge is not effective in the general permit until after the  
1120 [Superintendent] has provided written notice to the SIU that such a waiver request has  
1121 been granted in accordance with Section 6.4B.  
1122

1123 C. The [Superintendent] will retain a copy of the general permit, documentation to  
1124 support the POTW's determination that a specific SIU meets the criteria in Section  
1125 4.6A(1) to (5) and applicable State regulations, and a copy of the User's written request  
1126 for coverage for three (3) years after the expiration of the general permit. [Note: See 40  
1127 CFR 403.8(f)(1)(iii)(A)(1) through (5).]  
1128

1129 D. The [Superintendent] may not control an SIU through a general permit where the  
1130 facility is subject to production-based categorical Pretreatment Standards or categorical  
1131 Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs  
1132 whose limits are based on the Combined Wastestream Formula (Section 2.2C) or  
1133 Net/Gross calculations (Section 2.2 D). [Note: See 40 CFR 403.6(e) and 40 CFR 403.15]  
1134

#### 1135 4.7 Application Signatories and Certifications 1136

1137 A. All wastewater discharge permit applications, User reports and certification  
1138 statements must be signed by an Authorized Representative of the User and contain the  
1139 certification statement in Section 6.14 A. [Note: Definition of Authorized Representative has  
1140 been revised, see definition at Section 1.4 C]  
1141

1142 B. If the designation of an Authorized Representative is no longer accurate because a  
1143 different individual or position has responsibility for the overall operation of the facility  
1144 or overall responsibility for environmental matters for the company, a new written  
1145 authorization satisfying the requirements of this Section must be submitted to [the  
1146 Superintendent] prior to or together with any reports to be signed by an Authorized  
1147 Representative.  
1148

1149 {Optional} [Note: The following optional provision is required if the municipality has incorporated Section  
1150 1.4GG(3) into its ordinance].  
1151

1152 C. A facility determined to be a Non-Significant Categorical Industrial User by [the  
1153 Superintendent] pursuant to 1.4 GG(3) must annually submit the signed certification  
1154 statement in Section 6.14 B. [Note: See 40 CFR 403.3(v)(2)]  
1155

#### 1156 4.8 Individual Wastewater Discharge [and General {optional}] Permit Decisions 1157

1158 [The Superintendent] will evaluate the data furnished by the User and may require additional  
1159 information. Within [\_\_\_\_\_ (\_\_\_\_)] days of receipt of a complete permit application, [the  
1160 Superintendent] will determine whether to issue an individual wastewater discharge permit [or a  
1161 general permit {optional}]. [The Superintendent] may deny any application for an individual  
1162 wastewater discharge permit [or a general permit {optional}].  
1163

1164 SECTION 5—INDIVIDUAL WASTEWATER DISCHARGE [AND GENERAL {optional}]  
 1165 PERMIT ISSUANCE

1166  
 1167 5.1 Individual Wastewater Discharge [and General {optional}] Permit Duration  
 1168

1169 An individual wastewater discharge permit [or a general permit {optional}] shall be issued for a  
 1170 specified time period, not to exceed five (5) years from the effective date of the permit. An  
 1171 individual wastewater discharge permit [or a general permit {optional}] may be issued for a period  
 1172 less than five (5) years, at the discretion of [the Superintendent]. Each individual wastewater  
 1173 discharge permit [or a general permit {optional}] will indicate a specific date upon which it will  
 1174 expire.  
 1175

1176 5.2 Individual Wastewater Discharge Permit [and General Permit {optional}] Contents  
 1177

1178 An individual wastewater discharge permit [or a general permit {optional}] shall include such  
 1179 conditions as are deemed reasonably necessary by [the Superintendent] to prevent Pass Through  
 1180 or Interference, protect the quality of the water body receiving the treatment plant’s effluent,  
 1181 protect worker health and safety, facilitate sludge management and disposal, and protect against  
 1182 damage to the POTW.  
 1183

1184 A. Individual wastewater discharge permits [and general permits {optional}] must  
 1185 contain:  
 1186

1187 (1) A statement that indicates the wastewater discharge permit issuance date,  
 1188 expiration date and effective date; [Note: See Section 5.1.]  
 1189

1190 (2) A statement that the wastewater discharge permit is nontransferable without  
 1191 prior notification to [the City] in accordance with Section 5.5 of this ordinance,  
 1192 and provisions for furnishing the new owner or operator with a copy of the  
 1193 existing wastewater discharge permit;  
 1194

1195 (3) Effluent limits, including Best Management Practices, based on applicable  
 1196 Pretreatment Standards; [Note: Required Streamlining Rule Change]  
 1197

1198 (4) Self monitoring, sampling, reporting, notification, and record-keeping  
 1199 requirements. These requirements shall include an identification of pollutants (or  
 1200 best management practice) to be monitored, sampling location, sampling  
 1201 frequency, and sample type based on Federal, State, and local law.  
 1202

1203 (5) The process for seeking a waiver from monitoring for a pollutant neither  
 1204 present nor expected to be present in the Discharge in accordance with Section  
 1205 6.4 B. {Optional} [Note: This provision is required only if the municipality has  
 1206 incorporated Section 6.4B into its ordinance. Section 4.5A (8) includes an instruction to the  
 1207 permittees to include requests for a new (or renewal of an existing) monitoring waiver for a  
 1208 pollutant neither present nor expected to be present in the discharge. See 40 CFR  
 1209 403.12(e)(2).]  
 1210

1211 (6) A statement of applicable civil and criminal penalties for violation of  
1212 Pretreatment Standards and Requirements, and any applicable compliance  
1213 schedule. Such schedule may not extend the time for compliance beyond that  
1214 required by applicable Federal, State, or local law.

1215  
1216 (7) Requirements to control Slug Discharge, if determined by the  
1217 [Superintendent] to be necessary. *[Note: Required Streamlining Rule Change]*

1218  
1219 (8) Any grant of the monitoring waiver by the [Superintendent] (Section 6.4 B)  
1220 must be included as a condition in the User's permit [or other control  
1221 mechanism]. **{Optional} [Note: This provision is required only if the municipality has**  
1222 **incorporated Section 6.4B into its ordinance.]**

1223  
1224 B. Individual wastewater discharge permits [or general permits **{optional}**] may contain,  
1225 but need not be limited to, the following conditions:

1226  
1227 (1) Limits on the average and/or maximum rate of discharge, time of discharge,  
1228 and/or requirements for flow regulation and equalization;

1229  
1230 (2) Requirements for the installation of pretreatment technology, pollution  
1231 control, or construction of appropriate containment devices, designed to reduce,  
1232 eliminate, or prevent the introduction of pollutants into the treatment works;

1233  
1234 (3) Requirements for the development and implementation of spill control plans  
1235 or other special conditions including management practices necessary to  
1236 adequately prevent accidental, unanticipated, or nonroutine discharges;

1237  
1238 (4) Development and implementation of waste minimization plans to reduce the  
1239 amount of pollutants discharged to the POTW;

1240  
1241 (5) The unit charge or schedule of User charges and fees for the management of  
1242 the wastewater discharged to the POTW;

1243  
1244 (6) Requirements for installation and maintenance of inspection and sampling  
1245 facilities and equipment, including flow measurement devices;

1246  
1247 (7) A statement that compliance with the individual wastewater discharge permit  
1248 [or the general permit **{optional}**] does not relieve the permittee of responsibility  
1249 for compliance with all applicable Federal and State Pretreatment Standards,  
1250 including those which become effective during the term of the individual  
1251 wastewater discharge permit [or the general permit **{optional}**]; and

1252  
1253 (8) Other conditions as deemed appropriate by [the Superintendent] to ensure  
1254 compliance with this ordinance, and State and Federal laws, rules, and  
1255 regulations.

1256

1257 5.3 Permit Issuance Process { optional }

1258

1259 A. Public Notification. The [Superintendent] will publish [in an official government  
1260 publication and/or newspaper(s) of general circulation that provides meaningful public  
1261 notice with the jurisdiction(s) served by the POTW, or on a Web page], a notice to issue a  
1262 pretreatment permit, at least [\_\_\_\_\_ (\_\_\_\_) fill in number] days prior to issuance. The  
1263 notice will indicate a location where the draft permit may be reviewed and an address  
1264 where written comments may be submitted.

1265

1266 B. Permit Appeals. [The Superintendent] shall provide public notice of the issuance of  
1267 an individual wastewater discharge permit [or a general permit {optional}]. Any person,  
1268 including the User, may petition [the Superintendent] to reconsider the terms of an  
1269 individual wastewater discharge permit [or a general permit {optional}] within [\_\_\_\_\_ (\_\_\_\_)  
1270 (\_\_\_\_) fill in number] days of notice of its issuance.

1271

1272 (1) Failure to submit a timely petition for review shall be deemed to be a waiver  
1273 of the administrative appeal.

1274

1275 (2) In its petition, the appealing party must indicate the individual wastewater  
1276 discharge permit [or a general permit {optional}] provisions objected to, the  
1277 reasons for this objection, and the alternative condition, if any, it seeks to place in  
1278 the individual wastewater discharge permit [or a general permit {optional}].

1279

1280 (3) The effectiveness of the individual wastewater discharge permit [or a general  
1281 permit {optional}] shall not be stayed pending the appeal.

1282

1283 (4) If [the Superintendent] fails to act within [\_\_\_\_\_ (\_\_\_\_)] days, a request for  
1284 reconsideration shall be deemed to be denied. Decisions not to reconsider an  
1285 individual wastewater discharge permit [or a general permit {optional}], not to  
1286 issue an individual wastewater discharge permit [or a general permit {optional}], or  
1287 not to modify an individual wastewater discharge permit [or a general permit  
1288 {optional}] shall be considered final administrative actions for purposes of judicial  
1289 review.

1290

1291 (5) Aggrieved parties seeking judicial review of the final administrative  
1292 individual wastewater discharge permit [or general permit {optional}] decision  
1293 must do so by filing a complaint with the [insert name of appropriate Court] for  
1294 [proper jurisdiction] within [insert appropriate State Statute of Limitations].

1295

1296 5.4 Permit Modification

1297

1298 A. [The Superintendent] may modify an individual wastewater discharge permit for good  
1299 cause, including, but not limited to, the following reasons:

1300

1301 (1) To incorporate any new or revised Federal, State, or local Pretreatment  
1302 Standards or Requirements;

- 1303  
1304 (2) To address significant alterations or additions to the User’s operation,  
1305 processes, or wastewater volume or character since the time of the individual  
1306 wastewater discharge permit issuance;  
1307  
1308 (3) A change in the POTW that requires either a temporary or permanent  
1309 reduction or elimination of the authorized discharge;  
1310  
1311 (4) Information indicating that the permitted discharge poses a threat to [the  
1312 City’s] POTW, [City] personnel, or the receiving waters; [**Note: The Control**  
1313 **Authority should consider threats to the POTW’s beneficial sludge use.**]  
1314  
1315 (5) Violation of any terms or conditions of the individual wastewater discharge  
1316 permit;  
1317  
1318 (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater  
1319 discharge permit application or in any required reporting;  
1320  
1321 (7) Revision of or a grant of variance from categorical Pretreatment Standards  
1322 pursuant to Tennessee Rule 1200-4-14-.13;  
1323  
1324 (8) To correct typographical or other errors in the individual wastewater discharge  
1325 permit; or  
1326  
1327 (9) To reflect a transfer of the facility ownership or operation to a new owner or  
1328 operator where requested in accordance with Section 5.5.  
1329  
1330 **{Optional}[Note: The following provision is optional. The municipality may include a provision authorizing**  
1331 **it to do the following.]**  
1332  
1333 B. [The Superintendent] may modify a general permit for good cause, including, but not  
1334 limited to, the following reasons:  
1335  
1336 (1) To incorporate any new or revised Federal, State, or local Pretreatment  
1337 Standards or Requirements;  
1338  
1339 (2) A change in the POTW that requires either a temporary or permanent  
1340 reduction or elimination of the authorized discharge;  
1341  
1342 (3) To correct typographical or other errors in the individual wastewater discharge  
1343 permit; or  
1344  
1345 (4) To reflect a transfer of the facility ownership or operation to a new owner or  
1346 operator where requested in accordance with Section 5.5.  
1347

1348 5.5 Individual Wastewater Discharge Permit [and General Permit { optional}] Transfer

1349  
1350 Individual wastewater discharge permits [or coverage under general permits {optional}] may be  
1351 transferred to a new owner or operator only if the permittee gives at least [\_\_\_\_\_ (\_\_\_\_)] days  
1352 advance notice to [the Superintendent] and [the Superintendent] approves the individual  
1353 wastewater discharge permit [or the general permit coverage {optional}] transfer. The notice to  
1354 [the Superintendent] must include a written certification by the new owner or operator which:

1355  
1356 A. States that the new owner and/or operator has no immediate intent to change the  
1357 facility's operations and processes;

1358  
1359 B. Identifies the specific date on which the transfer is to occur; and

1360  
1361 C. Acknowledges full responsibility for complying with the existing individual  
1362 wastewater discharge permit [or general permit {optional}].

1363  
1364 Failure to provide advance notice of a transfer renders the individual wastewater discharge  
1365 permit [or coverage under the general permit {optional}] void as of the date of facility transfer.

1366  
1367 5.6 Individual Wastewater Discharge Permit [and General Permit {optional}] Revocation

1368  
1369 [The Superintendent] may revoke an individual wastewater discharge permit [or coverage under  
1370 a general permit {optional}] for good cause, including, but not limited to, the following reasons:

1371  
1372 A. Failure to notify [the Superintendent] of significant changes to the wastewater prior to  
1373 the changed discharge;

1374  
1375 B. Failure to provide prior notification to [the Superintendent] of changed conditions  
1376 pursuant to Section 6.5 of this ordinance;

1377  
1378 C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater  
1379 discharge permit application;

1380  
1381 D. Falsifying self-monitoring reports and certification statements;

1382  
1383 E. Tampering with monitoring equipment;

1384  
1385 F. Refusing to allow [the Superintendent] timely access to the facility premises and  
1386 records;

1387  
1388 G. Failure to meet effluent limitations;

1389  
1390 H. Failure to pay fines;

1391  
1392 I. Failure to pay sewer charges;

1393

- 1394 J. Failure to meet compliance schedules;  
1395  
1396 K. Failure to complete a wastewater survey or the wastewater discharge permit  
1397 application;  
1398  
1399 L. Failure to provide advance notice of the transfer of business ownership of a permitted  
1400 facility; or  
1401  
1402 M. Violation of any Pretreatment Standard or Requirement, or any terms of the  
1403 wastewater discharge permit [or the general permit {optional}] or this ordinance.  
1404

1405 Individual wastewater discharge permits [or coverage under general permits {optional}] shall be  
1406 voidable upon cessation of operations or transfer of business ownership. All individual  
1407 wastewater discharge permits [or general permits {optional}] issued to a User are void upon the  
1408 issuance of a new individual wastewater discharge permit [or a general permit {optional}] to that  
1409 User.  
1410

#### 1411 5.7 Individual Wastewater Discharge Permit [and General Permit {optional}] Reissuance 1412

1413 A User with an expiring individual wastewater discharge permit [or general permit {optional}]  
1414 shall apply for individual wastewater discharge permit [or general permit {optional}] reissuance  
1415 by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a  
1416 minimum of [\_\_\_\_\_] (\_\_\_\_\_) days prior to the expiration of the User's existing individual  
1417 wastewater discharge permit [or general permit {optional}].  
1418

#### 1419 5.8 Regulation of Waste Received from Other Jurisdictions 1420

1421 **[Note: The municipality must ensure that discharges received from entities outside its jurisdictional**  
1422 **boundaries are regulated to the same extent as are discharges from within its jurisdictional boundaries. How**  
1423 **a municipality regulates such discharges largely will be determined by what is allowed under its State law.**  
1424 **The municipality must determine the extent of its authority under State law to regulate Users located outside**  
1425 **its jurisdictional boundaries. If the municipality does not have the legal authority to issue enforceable**  
1426 **permits directly to extrajurisdictional dischargers and cannot obtain this authority under State law, it should**  
1427 **strongly consider entering into an agreement with the municipality in which the dischargers are located. The**  
1428 **agreement would require that the contributing municipality either regulate the dischargers within its**  
1429 **jurisdiction directly or allow the municipality (in which the POTW is located) to regulate such dischargers.**  
1430 **Following is one possible means of regulating dischargers located outside the municipality's jurisdictional**  
1431 **boundaries.]**  
1432

1433 A. If another municipality, or User located within another municipality, contributes  
1434 wastewater to the POTW, [the Superintendent] shall enter into an intermunicipal  
1435 agreement with the contributing municipality.  
1436

1437 B. Prior to entering into an agreement required by paragraph A, above, [the  
1438 Superintendent] shall request the following information from the contributing  
1439 municipality:  
1440

- 1441 (1) A description of the quality and volume of wastewater discharged to the
- 1442 POTW by the contributing municipality;
- 1443
- 1444 (2) An inventory of all Users located within the contributing municipality that are
- 1445 discharging to the POTW; and
- 1446
- 1447 (3) Such other information as [the Superintendent] may deem necessary.
- 1448

1449 C. An intermunicipal agreement, as required by paragraph A, above, shall contain the

1450 following conditions:

- 1451
- 1452 (1) A requirement for the contributing municipality to adopt a sewer use
- 1453 ordinance which is at least as stringent as this ordinance and Local Limits,
- 1454 including required Baseline Monitoring Reports (BMRs) which are at least as
- 1455 stringent as those set out in Section 2.4 of this ordinance. The requirement shall
- 1456 specify that such ordinance and limits must be revised as necessary to reflect
- 1457 changes made to [the City's] ordinance or Local Limits;
- 1458
- 1459 (2) A requirement for the contributing municipality to submit a revised User
- 1460 inventory on at least an annual basis;
- 1461
- 1462 (3) A provision specifying which pretreatment implementation activities,
- 1463 including individual wastewater discharge permit [or general permit {**optional**}]
- 1464 issuance, inspection and sampling, and enforcement, will be conducted by the
- 1465 contributing municipality; which of these activities will be conducted by [the
- 1466 Superintendent]; and which of these activities will be conducted jointly by the
- 1467 contributing municipality and [the Superintendent];
- 1468
- 1469 (4) A requirement for the contributing municipality to provide [the
- 1470 Superintendent] with access to all information that the contributing municipality
- 1471 obtains as part of its pretreatment activities;
- 1472
- 1473 (5) Limits on the nature, quality, and volume of the contributing municipality's
- 1474 wastewater at the point where it discharges to the POTW;
- 1475
- 1476 (6) Requirements for monitoring the contributing municipality's discharge;
- 1477
- 1478 (7) A provision ensuring [the Superintendent] access to the facilities of Users
- 1479 located within the contributing municipality's jurisdictional boundaries for the
- 1480 purpose of inspection, sampling, and any other duties deemed necessary by [the
- 1481 Superintendent]; and
- 1482
- 1483 (8) A provision specifying remedies available for breach of the terms of the
- 1484 intermunicipal agreement.
- 1485

1486 **[Note: Where the contributing municipality has primary responsibility for permitting, compliance**

1487 **monitoring, or enforcement, the intermunicipal agreement should specify that the municipality (in which the**

1488 POTW is located) has the right to take action to enforce the terms of the contributing municipality's  
1489 ordinance or to impose and enforce Pretreatment Standards and Requirements directly against dischargers  
1490 in the event the contributing jurisdiction is unable or unwilling to take such action.]

1491

## 1492 SECTION 6—REPORTING REQUIREMENTS

1493

### 1494 6.1 Baseline Monitoring Reports

1495

1496 [Note: Users that become subject to new or revised categorical Pretreatment Standards are required to  
1497 comply with the following reporting requirements even if they have been designated as Non-Significant  
1498 Categorical Industrial Users]

1499

1500 A. Within either one hundred eighty (180) days after the effective date of a categorical  
1501 Pretreatment Standard, or the final administrative decision on a category determination  
1502 under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing Categorical  
1503 Industrial Users currently discharging to or scheduled to discharge to the POTW shall  
1504 submit to [the Superintendent] a report which contains the information listed in paragraph  
1505 B, below. At least ninety (90) days prior to commencement of their discharge, New  
1506 Sources, and sources that become Categorical Industrial Users subsequent to the  
1507 promulgation of an applicable categorical Standard, shall submit to [the Superintendent] a  
1508 report which contains the information listed in paragraph B, below. A New Source shall  
1509 report the method of pretreatment it intends to use to meet applicable categorical  
1510 Standards. A New Source also shall give estimates of its anticipated flow and quantity of  
1511 pollutants to be discharged.

1512

1513 B. Users described above shall submit the information set forth below.

1514

1515 (1) All information required in Section 4.5A (1) (a), Section 4.5A (2), Section  
1516 4.5A (3) (a), and Section 4.5A (6). [Note: See 40 CFR 403.12(b)(1)-(7)]

1517

1518 (2) Measurement of pollutants.

1519 a. The User shall provide the information required in Section 4.5 A (7) (a)  
1520 through (d).

1521 b. The User shall take a minimum of one representative sample to compile that  
1522 data necessary to comply with the requirements of this paragraph.

1523 c. Samples should be taken immediately downstream from pretreatment facilities  
1524 if such exist or immediately downstream from the regulated process if no  
1525 pretreatment exists. If other wastewaters are mixed with the regulated  
1526 wastewater prior to pretreatment the User should measure the flows and  
1527 concentrations necessary to allow use of the combined wastestream formula in  
1528 Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the  
1529 Pretreatment Standards. Where an alternate concentration or mass limit has  
1530 been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this  
1531 adjusted limit along with supporting data shall be submitted to the Control  
1532 Authority;

1533 d. Sampling and analysis shall be performed in accordance with Section 6.10;

- e. The [Superintendent] may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.4 C and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.

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

## 6.2 Compliance Schedule Progress Reports

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

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

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

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

1580  
1581 D. In no event shall more than nine (9) months elapse between such progress reports to  
1582 [the Superintendent].  
1583

1584 6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline  
1585

1586 Within ninety (90) days following the date for final compliance with applicable categorical  
1587 Pretreatment Standards, or in the case of a New Source following commencement of the  
1588 introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and  
1589 Requirements shall submit to [the Superintendent] a report containing the information described  
1590 in Section 4.5A(6) and (7) and 6.1(B)(2) of this ordinance. For Users subject to equivalent mass  
1591 or concentration limits established in accordance with the procedures in Section 2.2 [**Note: See 40**  
1592 **CFR 403.6(c)**], this report shall contain a reasonable measure of the User's long-term production  
1593 rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of  
1594 allowable pollutant discharge per unit of production (or other measure of operation), this report  
1595 shall include the User's actual production during the appropriate sampling period. All  
1596 compliance reports must be signed and certified in accordance with Section 6.14 A of this  
1597 ordinance. All sampling will be done in conformance with Section 6.11.  
1598

1599 6.4 Periodic Compliance Reports  
1600

1601 [Note: All SIUs and Non-Significant Categorical Industrial User are required to submit periodic  
1602 compliance reports.]  
1603

1604 A. All [Significant Industrial] Users must, at a frequency determined by [the  
1605 Superintendent] submit no less than twice per year (June and December [or on dates  
1606 specified]) reports indicating the nature, concentration of pollutants in the discharge  
1607 which are limited by Pretreatment Standards and the measured or estimated average and  
1608 maximum daily flows for the reporting period. In cases where the Pretreatment Standard  
1609 requires compliance with a Best Management Practice (BMP) or pollution prevention  
1610 alternative, the User must submit documentation required by [the Superintendent] or the  
1611 Pretreatment Standard necessary to determine the compliance status of the User [**Note:**  
1612 ***Required Streamlining Rule Change***].  
1613

1614 {Optional} [Note: The following optional provision may be included in the local ordinances only if  
1615 authorized under State law. Criteria for monitoring waivers must also include any criteria defined in  
1616 applicable State law requirements.]  
1617

1618 B. The [City] may authorize an Industrial User subject to a categorical Pretreatment  
1619 Standard to forego sampling of a pollutant regulated by a categorical Pretreatment  
1620 Standard if the Industrial User has demonstrated through sampling and other technical  
1621 factors that the pollutant is neither present nor expected to be present in the Discharge, or  
1622 is present only at background levels from intake water and without any increase in the  
1623 pollutant due to activities of the Industrial User. [see Tennessee Rule 1200-4-14-  
1624 .12(5)(b)] This authorization is subject to the following conditions:  
1625

- 1626 (1) The waiver may be authorized where a pollutant is determined to be present  
1627 solely due to sanitary wastewater discharged from the facility provided that the  
1628 sanitary wastewater is not regulated by an applicable categorical Standard and  
1629 otherwise includes no process wastewater.  
1630
- 1631 (2) The monitoring waiver is valid only for the duration of the effective period of  
1632 the individual wastewater discharge permit, but in no case longer than 5 years.  
1633 The User must submit a new request for the waiver before the waiver can be  
1634 granted for each subsequent individual wastewater discharge permit. See Section  
1635 4.5A(8).  
1636
- 1637 (3) In making a demonstration that a pollutant is not present, the Industrial User  
1638 must provide data from at least one sampling of the facility's process wastewater  
1639 prior to any treatment present at the facility that is representative of all wastewater  
1640 from all processes.  
1641
- 1642 (4) The request for a monitoring waiver must be signed in accordance with  
1643 Section 1.4C, and include the certification statement in 6.14 A (Tennessee Rule  
1644 1200-4-14-.06(1)(b)2).  
1645
- 1646 (5) Non-detectable sample results may be used only as a demonstration that a  
1647 pollutant is not present if the EPA approved method from 40 CFR Part 136 with  
1648 the lowest minimum detection level for that pollutant was used in the analysis.  
1649
- 1650 (6) Any grant of the monitoring waiver by the [Superintendent] must be included  
1651 as a condition in the User's permit. The reasons supporting the waiver and any  
1652 information submitted by the User in its request for the waiver must be  
1653 maintained by the [Superintendent] for 3 years after expiration of the waiver.  
1654
- 1655 (7) Upon approval of the monitoring waiver and revision of the User's permit by  
1656 the [Superintendent], the Industrial User must certify on each report with the  
1657 statement in Section 6.14 C below, that there has been no increase in the pollutant  
1658 in its wastestream due to activities of the Industrial User.  
1659
- 1660 (8) In the event that a waived pollutant is found to be present or is expected to be  
1661 present because of changes that occur in the User's operations, the User must  
1662 immediately: Comply with the monitoring requirements of Section 6.4 A, or other  
1663 more frequent monitoring requirements imposed by the [Superintendent], and  
1664 notify the [Superintendent].  
1665
- 1666 (9) This provision does not supersede certification processes and requirements  
1667 established in categorical Pretreatment Standards, except as otherwise specified in  
1668 the categorical Pretreatment Standard.  
1669  
1670

1671 C. All periodic compliance reports must be signed and certified in accordance with  
1672 Section 6.14 A of this ordinance.

1673  
1674 D. All wastewater samples must be representative of the User's discharge. Wastewater  
1675 monitoring and flow measurement facilities shall be properly operated, kept clean, and  
1676 maintained in good working order at all times. The failure of a User to keep its  
1677 monitoring facility in good working order shall not be grounds for the User to claim that  
1678 sample results are unrepresentative of its discharge. *[Note: This paragraph supports the*  
1679 *Required Streamlining Rule Changes.]*

1680  
1681 E. If a User subject to the reporting requirement in this section monitors any regulated  
1682 pollutant at the appropriate sampling location more frequently than required by [the  
1683 Superintendent], using the procedures prescribed in Section 6.11 of this ordinance, the  
1684 results of this monitoring shall be included in the report. **[Note: See 40 CFR 403.12(g)(6)]**

1685  
1686 **{Optional} [Note: The following optional provision may be included in the local ordinances only where the**  
1687 **POTW has been authorized by EPA to accept electronic reports from its IUs and State law authorizes it.]**

1688  
1689 F. Users that send electronic (digital) documents to [the City] to satisfy the requirements  
1690 of this Section must: [specify POTW requirements for IU submittal of electronic reports  
1691 here. **[Note: POTWs that choose to receive electronic documents must satisfy the requirements of**  
1692 **40 CFR Part 3—(Electronic reporting)]**

## 1693 6.5 Reports of Changed Conditions

1694  
1695 Each User must notify [the Superintendent] of any significant changes to the User's operations or  
1696 system which might alter the nature, quality, or volume of its wastewater at least [\_\_\_\_\_  
1697 (\_\_\_\_)] days before the change.

1698  
1699 A. [The Superintendent] may require the User to submit such information as may be  
1700 deemed necessary to evaluate the changed condition, including the submission of a  
1701 wastewater discharge permit application under Section 4.5 of this ordinance.

1702  
1703 B. [The Superintendent] may issue an individual wastewater discharge permit [or a  
1704 general permit **{optional}**] under Section 5.7 of this ordinance or modify an existing  
1705 wastewater discharge permit [or a general permit **{optional}**] under Section 5.4 of this  
1706 ordinance in response to changed conditions or anticipated changed conditions.  
1707  
1708

## 1709 6.6 Reports of Potential Problems

1710  
1711 A. In the case of any discharge, including, but not limited to, accidental discharges,  
1712 discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug  
1713 Discharge or Slug Load, that might cause potential problems for the POTW, the User  
1714 shall immediately telephone and notify [the Superintendent] of the incident. This  
1715 notification shall include the location of the discharge, type of waste, concentration and  
1716 volume, if known, and corrective actions taken by the User.  
1717

1718 B. Within five (5) days following such discharge, the User shall, unless waived by [the  
1719 Superintendent], submit a detailed written report describing the cause(s) of the discharge  
1720 and the measures to be taken by the User to prevent similar future occurrences. Such  
1721 notification shall not relieve the User of any expense, loss, damage, or other liability  
1722 which might be incurred as a result of damage to the POTW, natural resources, or any  
1723 other damage to person or property; nor shall such notification relieve the User of any  
1724 fines, penalties, or other liability which may be imposed pursuant to this ordinance.  
1725 **{Optional}** [Note: This report is not required under the General Pretreatment Regulations and,  
1726 therefore, is optional.]  
1727

1728 C. A notice shall be permanently posted on the User's bulletin board or other prominent  
1729 place advising employees who to call in the event of a discharge described in paragraph  
1730 A, above. Employers shall ensure that all employees, who could cause such a discharge  
1731 to occur, are advised of the emergency notification procedure.  
1732

1733 D. Significant Industrial Users are required to notify the [Superintendent] immediately of  
1734 any changes at its facility affecting the potential for a Slug Discharge. [*Note: Required*  
1735 *Streamlining Rule Change*]  
1736

#### 1737 6.7 Reports from Unpermitted Users 1738

1739 All Users not required to obtain an individual wastewater discharge permit [or general permit  
1740 **{optional}**] shall provide appropriate reports to [the Superintendent] as [the Superintendent] may  
1741 require.  
1742

#### 1743 6.8 Notice of Violation/Repeat Sampling and Reporting 1744

1745 If sampling performed by a User indicates a violation, the User must notify [the Superintendent]  
1746 within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the  
1747 sampling and analysis and submit the results of the repeat analysis to [the Superintendent] within  
1748 thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not  
1749 required if [the City] performs sampling at the User's facility at least once a month, or if [the  
1750 City] performs sampling at the User between the time when the initial sampling was conducted  
1751 and the time when the User or [the City] receives the results of this sampling, or if [the City] has  
1752 performed the sampling and analysis in lieu of the Industrial User.  
1753

1754 [*Note: Required Streamlining Rule Change needed if POTW performs sampling in lieu of the Industrial Users.*  
1755 *If the City performed the sampling and analysis in lieu of the Industrial User, the City will perform the*  
1756 *repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the*  
1757 *repeat sampling and analysis. See 40 CFR 403.12(g) (2).]*  
1758

#### 1759 6.9 Notification of the Discharge of Hazardous Waste 1760

1761 [**Note: The municipality may choose to prohibit the discharge of hazardous wastes.**]  
1762

1763 A. Any User who commences the discharge of hazardous waste shall notify the POTW,  
1764 the EPA Regional Waste Management Division Director, and State hazardous waste  
1765 authorities, in writing, of any discharge into the POTW of a substance which, if otherwise

1766 disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must  
1767 include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA  
1768 hazardous waste number, and the type of discharge (continuous, batch, or other). If the  
1769 User discharges more than one hundred (100) kilograms of such waste per calendar  
1770 month to the POTW, the notification also shall contain the following information to the  
1771 extent such information is known and readily available to the User: an identification of  
1772 the hazardous constituents contained in the wastes, an estimation of the mass and  
1773 concentration of such constituents in the wastestream discharged during that calendar  
1774 month, and an estimation of the mass of constituents in the wastestream expected to be  
1775 discharged during the following twelve (12) months. All notifications must take place no  
1776 later than one hundred and eighty (180) days after the discharge commences. Any  
1777 notification under this paragraph need be submitted only once for each hazardous waste  
1778 discharged. However, notifications of changed conditions must be submitted under  
1779 Section 6.5 of this ordinance. The notification requirement in this Section does not apply  
1780 to pollutants already reported by Users subject to categorical Pretreatment Standards  
1781 under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.  
1782

1783 B. Dischargers are exempt from the requirements of paragraph A, above, during a  
1784 calendar month in which they discharge no more than fifteen (15) kilograms of  
1785 hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR  
1786 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute  
1787 hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as  
1788 specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.  
1789 Subsequent months during which the User discharges more than such quantities of any  
1790 hazardous waste do not require additional notification.  
1791

1792 C. In the case of any new regulations under section 3001 of RCRA identifying additional  
1793 characteristics of hazardous waste or listing any additional substance as a hazardous  
1794 waste, the User must notify [the Superintendent], the EPA Regional Waste Management  
1795 Waste Division Director, and State hazardous waste authorities of the discharge of such  
1796 substance within ninety (90) days of the effective date of such regulations.  
1797

1798 D. In the case of any notification made under this Section, the User shall certify that it  
1799 has a program in place to reduce the volume and toxicity of hazardous wastes generated  
1800 to the degree it has determined to be economically practical.  
1801

1802 E. This provision does not create a right to discharge any substance not otherwise  
1803 permitted to be discharged by this ordinance, a permit issued thereunder, or any  
1804 applicable Federal or State law.  
1805

#### 1806 6.10 Analytical Requirements

1807

1808 All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater  
1809 discharge permit application or report shall be performed in accordance with the techniques  
1810 prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an  
1811 applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or

1812 analytical techniques for the pollutant in question, or where the EPA determines that the Part 136  
 1813 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and  
 1814 analyses shall be performed by using validated analytical methods or any other applicable  
 1815 sampling and analytical procedures, including procedures suggested by the [Superintendent] or  
 1816 other parties approved by EPA.

1817  
 1818 6.11 Sample Collection

1819  
 1820 Samples collected to satisfy reporting requirements must be based on data obtained through  
 1821 appropriate sampling and analysis performed during the period covered by the report, based on  
 1822 data that is representative of conditions occurring during the reporting period. **[Note: The Control  
 1823 Authority is require to indicate the frequency of monitoring necessary to assess and assure compliance by the  
 1824 User with applicable Pretreatment Standards and Requirements.]**

1825  
 1826 **[Note: In the Streamlining Rule changes, Paragraphs A and B below have been deleted from 40 CFR  
 1827 403.12(b)(5) and added to 40 CFR 403.12(g)(3). The original paragraphs relate to Categorical Industrial User  
 1828 monitoring reports only while the relocated paragraphs apply to all SIU monitoring.]**

1829  
 1830 A. Except as indicated in Section B and C below, the User must collect wastewater  
 1831 samples using 24-hour flow-proportional composite sampling techniques, unless  
 1832 time-proportional composite sampling or grab sampling is authorized by [the  
 1833 Superintendent]. Where time-proportional composite sampling or grab sampling is  
 1834 authorized by [the City], the samples must be representative of the discharge. Using  
 1835 protocols (including appropriate preservation) specified in 40 CFR Part 136 and  
 1836 appropriate EPA guidance, multiple grab samples collected during a 24-hour period may  
 1837 be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the  
 1838 samples may be composited in the laboratory or in the field; for volatile organics and oil  
 1839 and grease, the samples may be composited in the laboratory. Composite samples for  
 1840 other parameters unaffected by the compositing procedures as documented in approved  
 1841 EPA methodologies may be authorized by [the City], as appropriate. In addition, grab  
 1842 samples may be required to show compliance with Instantaneous Limits. **[Note: Required  
 1843 Streamlining Rule Change. See 40 CFR 403.12(g)(3)]**

1844  
 1845 B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and  
 1846 volatile organic compounds must be obtained using grab collection techniques.

1847  
 1848 C. For sampling required in support of baseline monitoring and 90-day compliance  
 1849 reports required in Section 6.1 and 6.3 [Tennessee Rule 1200-4-14-.12(2) and (4)], a  
 1850 minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and  
 1851 grease, sulfide and volatile organic compounds for facilities for which historical sampling  
 1852 data do not exist; for facilities for which historical sampling data are available, [the  
 1853 Superintendent] may authorize a lower minimum. For the reports required by paragraphs  
 1854 Section 6.4 (Tennessee Rule 1200-4-14-.12(5) and (8)), the Industrial User is required to  
 1855 collect the number of grab samples necessary to assess and assure compliance by with  
 1856 applicable Pretreatment Standards and Requirements. **[Note: Required Streamlining Rule  
 1857 Change, see 40 CFR 403.12(g)(4).]**

1858

1859 6.12 Date of Receipt of Reports

1860

1861 Written reports will be deemed to have been submitted on the date postmarked. For reports,  
1862 which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal  
1863 Service, the date of receipt of the report shall govern.

1864

1865 6.13 Recordkeeping

1866

1867 Users subject to the reporting requirements of this ordinance shall retain, and make available for  
1868 inspection and copying, all records of information obtained pursuant to any monitoring activities  
1869 required by this ordinance, any additional records of information obtained pursuant to  
1870 monitoring activities undertaken by the User independent of such requirements, and  
1871 documentation associated with Best Management Practices established under Section 2.4 C.  
1872 Records shall include the date, exact place, method, and time of sampling, and the name of the  
1873 person(s) taking the samples; the dates analyses were performed; who performed the analyses;  
1874 the analytical techniques or methods used; and the results of such analyses. These records shall  
1875 remain available for a period of at least three (3) years. This period shall be automatically  
1876 extended for the duration of any litigation concerning the User or [the City], or where the User  
1877 has been specifically notified of a longer retention period by [the Superintendent]. *[Note: The*  
1878 *recordkeeping requirements for BMPs are a Required Streamlining Rule Change.]*

1879

1880 6.14 Certification Statements

1881

1882 **[Note: This Section has been modified to consolidate the certification statements previously listed elsewhere.**  
1883 **Section 4.7A&C—Certification of all wastewater discharge permit applications, and User reports and annual**  
1884 **certification of NSCIUs, Section 6.4B(4)—“initial” certification for pollutants not present, Section 6.4B (7)—**  
1885 **Certification of periodic reports of pollutants not present, Section 6.4C—Certification of all periodic**  
1886 **compliance reports.]**

1887

1888 **[Note: 40 CFR 403.12 (l) requires that the certification which follows be provided for IU Baseline Monitoring**  
1889 **Reports (BMRs) (403.12(b), IU Reports on Compliance with Categorical Pretreatment Standards Deadline**  
1890 **(90-day compliance report) (403.12(d), CIU Periodic Reports on Continued Compliance (403.12(e)) and the**  
1891 **initial request from CIUs to forego Monitoring for Pollutants Not Present. In addition to CIUs, the model**  
1892 **ordinance requires this certification statement for all wastewater discharge permit applications and User**  
1893 **reports. Furthermore, the POTW should require this certification statement for all noncategorical SIU**  
1894 **compliance reports.]**

1895

1896 A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—  
 1897 The following certification statement is required to be signed and submitted by Users  
 1898 submitting permit applications in accordance with Section 4.7; Users submitting baseline  
 1899 monitoring reports under Section 6.1 B (5) [Note: See 40 CFR 403.12 (l)]; Users submitting  
 1900 reports on compliance with the categorical Pretreatment Standard deadlines under Section  
 1901 6.3 [Note: See 40 CFR 403.12(d)]; Users submitting periodic compliance reports required by  
 1902 Section 6.4 A–C [Note: See 40 CFR 403.12(e) and (h)], and Users submitting an initial request  
 1903 to forego sampling of a pollutant on the basis of Section 6.4B(4)[Note: See 40 CFR  
 1904 403.12(e)(2)(iii)]. The following certification statement must be signed by an Authorized  
 1905 Representative as defined in Section 1.4 C:  
 1906

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.

1917 {Optional} [Note: The following optional provision is required if the municipality has incorporated Section  
 1918 1.4 GG(3) into its ordinance].  
 1919

1920 B. Annual Certification for Non-Significant Categorical Industrial Users—A facility  
 1921 determined to be a Non-Significant Categorical Industrial User by [the Superintendent]  
 1922 pursuant to 1.4 GG(3) and 4.7 C [Note: See 40 CFR 403.3(v)(2)] must annually submit the  
 1923 following certification statement signed in accordance with the signatory requirements in  
 1924 1.4 C [Note: See 40 CFR 403.120(l)]. This certification must accompany an alternative report  
 1925 required by [the Superintendent]:  
 1926

Based on my inquiry of the person or persons directly responsible for  
 managing compliance with the categorical Pretreatment Standards under  
 40 CFR \_\_\_\_, I certify that, to the best of my knowledge and belief that  
 during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_  
 [months, days, year]:

(a) The facility described as \_\_\_\_\_  
 [facility name] met the definition of a Non-Significant Categorical  
 Industrial User as described in 1.4 GG (3); [Note: See 40 CFR 403.3(v)(2)]

(b) The facility complied with all applicable Pretreatment Standards and  
 requirements during this reporting period; and (c) the facility never  
 discharged more than 100 gallons of total categorical wastewater on any  
 given day during this reporting period.

This compliance certification is based on the following information.

1943  
1944  
1945  
1946  
1947  
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1951  
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1961  
1962  
1963  
1964



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

C. Certification of Pollutants Not Present

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

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

SECTION 7—COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

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

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

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

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

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of [the Superintendent] and shall not be replaced. The costs of clearing such access shall be born by the User.

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

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

2006 7.2 Search Warrants

2007  
2008 **[Note: The specific process by which search warrants may be issued will vary from City to City. The**  
2009 **procedure will likely be a matter of State law. This provision will need to be adjusted based on the particular**  
2010 **procedure followed in that State and City.]**

2011  
2012 If [the Superintendent] has been refused access to a building, structure, or property, or any part  
2013 thereof, and is able to demonstrate probable cause to believe that there may be a violation of this  
2014 ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and  
2015 sampling program of [the City] designed to verify compliance with this ordinance or any permit  
2016 or order issued hereunder, or to protect the overall public health, safety and welfare of the  
2017 community, [the Superintendent] may seek issuance of a search warrant from the [insert name of  
2018 appropriate Court] of [the City or State].

2019  
2020 SECTION 8—CONFIDENTIAL INFORMATION

2021  
2022 Information and data on a User obtained from reports, surveys, wastewater discharge permit  
2023 applications, individual wastewater discharge permits, [general permits, {optional}] and  
2024 monitoring programs, and from [the Superintendent’s] inspection and sampling activities, shall  
2025 be available to the public without restriction, unless the User specifically requests, and is able to  
2026 demonstrate to the satisfaction of [the Superintendent], that the release of such information  
2027 would divulge information, processes, or methods of production entitled to protection as trade  
2028 secrets under applicable State law. Any such request must be asserted at the time of submission  
2029 of the information or data. When requested and demonstrated by the User furnishing a report  
2030 that such information should be held confidential, the portions of a report which might disclose  
2031 trade secrets or secret processes shall not be made available for inspection by the public, but  
2032 shall be made available immediately upon request to governmental agencies for uses related to  
2033 the NPDES program or pretreatment program, and in enforcement proceedings involving the  
2034 person furnishing the report. Wastewater constituents and characteristics and other effluent data,  
2035 as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be  
2036 available to the public without restriction.

2037  
2038 SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

2039  
2040 **[Note: Unless the optional (underlined) revisions to the SNC provisions have been made by the State, the**  
2041 **POTW must retain the previous requirements. The optional revisions include the public notice in a**  
2042 **newspaper of general circulation that provides meaningful public notice within the jurisdiction, publishing**  
2043 **SIUs and other IUs that have adversely affected the POTW, and that IU reports submitted more than 45 days**  
2044 **late constitutes SNC. See 40 CFR 403.8(f) (2)(viii)(A-C).]**

2045  
2046 [The Superintendent] shall publish annually, in a newspaper of general circulation that provides  
2047 meaningful public notice within the jurisdictions served by [the POTW], a list of the Users  
2048 which, at any time during the previous twelve (12) months, were in Significant Noncompliance  
2049 with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance  
2050 shall be applicable to all Significant Industrial Users (or any other Industrial User that violates  
2051 paragraphs (C), (D) or (H) of this Section) and shall mean:

- 2053 A. Chronic violations of wastewater discharge limits, defined here as those in which  
 2054 sixty-six percent (66%) or more of all the measurements taken for the same pollutant  
 2055 parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric  
 2056 Pretreatment Standard or Requirement, including Instantaneous Limits as defined in  
 2057 Section 2; *[Note: Required Streamlining Rule Change, see 40 CFR 403.3(l)]*  
 2058
- 2059 B. Technical Review Criteria (TRC) violations, defined here as those in which  
 2060 thirty-three percent (33%) or more of wastewater measurements taken for each pollutant  
 2061 parameter during a six- (6-) month period equals or exceeds the product of the numeric  
 2062 Pretreatment Standard or Requirement including Instantaneous Limits, as defined by  
 2063 Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease,  
 2064 and 1.2 for all other pollutants except pH); *[Note: Required Streamlining Rule Change, see 40*  
 2065 *CFR 403.3(l)]*  
 2066
- 2067 C. Any other violation of a Pretreatment Standard or Requirement as defined by Section  
 2068 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that  
 2069 [the Superintendent] determines has caused, alone or in combination with other  
 2070 discharges, Interference or Pass Through, including endangering the health of POTW  
 2071 personnel or the general public; *[Required Streamlining Rule Change, see 40 CFR 403.3(l)]*  
 2072
- 2073 D. Any discharge of a pollutant that has caused imminent endangerment to the public or  
 2074 to the environment, or has resulted in [the Superintendent’s] exercise of its emergency  
 2075 authority to halt or prevent such a discharge;  
 2076
- 2077 E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule  
 2078 milestone contained in an individual wastewater discharge permit [or a general permit  
 2079 {**optional**}] or enforcement order for starting construction, completing construction, or  
 2080 attaining final compliance;  
 2081
- 2082 F. Failure to provide within forty-five (45) days after the due date, any required reports,  
 2083 including baseline monitoring reports, reports on compliance with categorical  
 2084 Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on  
 2085 compliance with compliance schedules;  
 2086
- 2087 G. Failure to accurately report noncompliance; or  
 2088
- 2089 H. Any other violation(s), which may include a violation of Best Management Practices,  
 2090 which [the Superintendent] determines will adversely affect the operation or  
 2091 implementation of the local pretreatment program.  
 2092

2093 SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

2094  
 2095 **[Note: The municipality must refer to State law to see if the remedies listed in Sections 10, 11, and 12 are**  
 2096 **allowable. The municipality must have the authority to seek injunctive relief for noncompliance and to seek**  
 2097 **or assess penalties of at least \$1,000 a day for each violation of Pretreatment Standards or Requirements by**  
 2098 **Industrial Users.]**  
 2099

2100 10.1 Notification of Violation

2101  
2102 When [the Superintendent] finds that a User has violated, or continues to violate, any provision  
2103 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or  
2104 order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent]  
2105 may serve upon that User a written Notice of Violation. Within [ ( )] days of the  
2106 receipt of such notice, an explanation of the violation and a plan for the satisfactory correction  
2107 and prevention thereof, to include specific required actions, shall be submitted by the User to  
2108 [the Superintendent]. Submission of such a plan in no way relieves the User of liability for any  
2109 violations occurring before or after receipt of the Notice of Violation. Nothing in this Section  
2110 shall limit the authority of [the Superintendent] to take any action, including emergency actions  
2111 or any other enforcement action, without first issuing a Notice of Violation.

2112  
2113 10.2 Consent Orders

2114  
2115 [The Superintendent] may enter into Consent Orders, assurances of compliance, or other similar  
2116 documents establishing an agreement with any User responsible for noncompliance. Such  
2117 documents shall include specific action to be taken by the User to correct the noncompliance  
2118 within a time period specified by the document. Such documents shall have the same force and  
2119 effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance  
2120 and shall be judicially enforceable.

2121  
2122 10.3 Show Cause Hearing

2123  
2124 [The Superintendent] may order a User which has violated, or continues to violate, any provision  
2125 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or  
2126 order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before [the  
2127 Superintendent] and show cause why the proposed enforcement action should not be taken.  
2128 Notice shall be served on the User specifying the time and place for the meeting, the proposed  
2129 enforcement action, the reasons for such action, and a request that the User show cause why the  
2130 proposed enforcement action should not be taken. The notice of the meeting shall be served  
2131 personally or by registered or certified mail (return receipt requested) at least [\_\_\_\_\_ (\_\_\_\_)]  
2132 days prior to the hearing. Such notice may be served on any Authorized Representative of the  
2133 User as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not  
2134 be a bar against, or prerequisite for, taking any other action against the User.

2135  
2136 10.4 Compliance Orders

2137  
2138 When [the Superintendent] finds that a User has violated, or continues to violate, any provision  
2139 of this ordinance, an individual wastewater discharge permit, [or a general permit {**optional**}] or  
2140 order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent]  
2141 may issue an order to the User responsible for the discharge directing that the User come into  
2142 compliance within a specified time. If the User does not come into compliance within the time  
2143 provided, sewer service may be discontinued unless adequate treatment facilities, devices, or  
2144 other related appurtenances are installed and properly operated. Compliance orders also may  
2145 contain other requirements to address the noncompliance, including additional self-monitoring

2146 and management practices designed to minimize the amount of pollutants discharged to the  
2147 sewer. A compliance order may not extend the deadline for compliance established for a  
2148 Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability  
2149 for any violation, including any continuing violation. Issuance of a compliance order shall not  
2150 be a bar against, or a prerequisite for, taking any other action against the User.

2151  
2152 10.5 Cease and Desist Orders

2153  
2154 When [the Superintendent] finds that a User has violated, or continues to violate, any provision  
2155 of this ordinance, an individual wastewater discharge permit, [or a general permit {optional}] or  
2156 order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's  
2157 past violations are likely to recur, [the Superintendent] may issue an order to the User directing it  
2158 to cease and desist all such violations and directing the User to:

- 2159  
2160 A. Immediately comply with all requirements; and  
2161  
2162 B. Take such appropriate remedial or preventive action as may be needed to properly  
2163 address a continuing or threatened violation, including halting operations and/or  
2164 terminating the discharge. Issuance of a cease and desist order shall not be a bar  
2165 against, or a prerequisite for, taking any other action against the User.

2166  
2167 10.6 Administrative Fines

2168  
2169 **[Note: The municipality should consult State law to determine whether it has the legal authority to impose**  
2170 **administrative penalties.]**

2171  
2172 A. When [the Superintendent] finds that a User has violated, or continues to violate, any  
2173 provision of this ordinance, an individual wastewater discharge permit, [or a general  
2174 permit {optional}] or order issued hereunder, or any other Pretreatment Standard or  
2175 Requirement, [the Superintendent] may fine such User in an amount not to exceed [insert  
2176 maximum fine allowed under State Law]. Such fines shall be assessed on a per-violation,  
2177 per-day basis. In the case of monthly or other long-term average discharge limits, fines  
2178 shall be assessed for each day during the period of violation.

2179  
2180 B. Unpaid charges, fines, and penalties shall, after [\_\_\_\_\_] (\_\_\_\_\_) calendar days, be  
2181 assessed an additional penalty of [\_\_\_\_\_] percent (\_\_\_\_%) of the unpaid balance, and  
2182 interest shall accrue thereafter at a rate of [\_\_\_\_\_] percent (\_\_\_\_%) per month. A lien  
2183 against the User's property shall be sought for unpaid charges, fines, and penalties.

2184  
2185 C. Users desiring to dispute such fines must file a written request for [the  
2186 Superintendent] to reconsider the fine along with full payment of the fine amount within  
2187 [\_\_\_\_\_] (\_\_\_\_\_) days of being notified of the fine. Where a request has merit, [the  
2188 Superintendent] may convene a hearing on the matter. In the event the User's appeal is  
2189 successful, the payment, together with any interest accruing thereto, shall be returned to  
2190 the User. [The Superintendent] may add the costs of preparing administrative  
2191 enforcement actions, such as notices and orders, to the fine.

2192

2193 D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for,  
2194 taking any other action against the User.

2195  
2196 10.7 Emergency Suspensions

2197  
2198 [The Superintendent] may immediately suspend a User's discharge, after informal notice to the  
2199 User, whenever such suspension is necessary to stop an actual or threatened discharge, which  
2200 reasonably appears to present, or cause an imminent or substantial endangerment to the health or  
2201 welfare of persons. [The Superintendent] may also immediately suspend a User's discharge,  
2202 after notice and opportunity to respond, that threatens to interfere with the operation of the  
2203 POTW, or which presents, or may present, an endangerment to the environment.

2204  
2205 A. Any User notified of a suspension of its discharge shall immediately stop or eliminate  
2206 its contribution. In the event of a User's failure to immediately comply voluntarily with  
2207 the suspension order, [the Superintendent] may take such steps as deemed necessary,  
2208 including immediate severance of the sewer connection, to prevent or minimize damage  
2209 to the POTW, its receiving stream, or endangerment to any individuals. [The  
2210 Superintendent] may allow the User to recommence its discharge when the User has  
2211 demonstrated to the satisfaction of [the Superintendent] that the period of endangerment  
2212 has passed, unless the termination proceedings in Section 10.8 of this ordinance are  
2213 initiated against the User.

2214  
2215 B. A User that is responsible, in whole or in part, for any discharge presenting imminent  
2216 endangerment shall submit a detailed written statement, describing the causes of the  
2217 harmful contribution and the measures taken to prevent any future occurrence, to [the  
2218 Superintendent] prior to the date of any show cause or termination hearing under Sections  
2219 10.3 or 10.8 of this ordinance.

2220  
2221 Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency  
2222 Suspension under this Section.

2223  
2224 10.8 Termination of Discharge

2225  
2226 In addition to the provisions in Section 5.6 of this ordinance, any User who violates the  
2227 following conditions is subject to discharge termination:

2228  
2229 A. Violation of individual wastewater discharge permit [or general permit {**optional**}]  
2230 conditions;

2231  
2232 B. Failure to accurately report the wastewater constituents and characteristics of its  
2233 discharge;

2234  
2235 C. Failure to report significant changes in operations or wastewater volume, constituents,  
2236 and characteristics prior to discharge;

2237

2238 D. Refusal of reasonable access to the User’s premises for the purpose of inspection,  
2239 monitoring, or sampling; or

2241 E. Violation of the Pretreatment Standards in Section 2 of this ordinance.

2242  
2243 Such User will be notified of the proposed termination of its discharge and be offered an  
2244 opportunity to show cause under Section 10.3 of this ordinance why the proposed action should  
2245 not be taken. Exercise of this option by [the Superintendent] shall not be a bar to, or a  
2246 prerequisite for, taking any other action against the User.

2247  
2248 SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

2249  
2250 11.1 Injunctive Relief

2251  
2252 When [the Superintendent] finds that a User has violated, or continues to violate, any provision  
2253 of this ordinance, an individual wastewater discharge permit, [or a general permit {optional}] or  
2254 order issued hereunder, or any other Pretreatment Standard or Requirement, [the Superintendent]  
2255 may petition the [insert name of appropriate Court] through [the City’s] Attorney for the issuance  
2256 of a temporary or permanent injunction, as appropriate, which restrains or compels the specific  
2257 performance of the individual wastewater discharge permit, [the general permit, {optional}] order,  
2258 or other requirement imposed by this ordinance on activities of the User. [The Superintendent]  
2259 may also seek such other action as is appropriate for legal and/or equitable relief, including a  
2260 requirement for the User to conduct environmental remediation. A petition for injunctive relief  
2261 shall not be a bar against, or a prerequisite for, taking any other action against a User.

2262  
2263 11.2 Civil Penalties

2264  
2265 **[Note: The municipality must have the minimum authority to seek civil or criminal penalties in the amount of**  
2266 **at least \$1,000 per day per violation.]**

2267  
2268 A. A User who has violated, or continues to violate, any provision of this ordinance, an  
2269 individual wastewater discharge permit, [or a general permit {optional}] or order issued  
2270 hereunder, or any other Pretreatment Standard or Requirement shall be liable to [the City]  
2271 for a maximum civil penalty of [insert maximum allowed under State law but not less  
2272 than \$1,000] per violation, per day. In the case of a monthly or other long-term average  
2273 discharge limit, penalties shall accrue for each day during the period of the violation.

2274  
2275 B. [The Superintendent] may recover reasonable attorneys’ fees, court costs, and other  
2276 expenses associated with enforcement activities, including sampling and monitoring  
2277 expenses, and the cost of any actual damages incurred by [the City].

2278  
2279 C. In determining the amount of civil liability, the Court shall take into account all  
2280 relevant circumstances, including, but not limited to, the extent of harm caused by the  
2281 violation, the magnitude and duration of the violation, any economic benefit gained  
2282 through the User’s violation, corrective actions by the User, the compliance history of the  
2283 User, and any other factor as justice requires.

2285 D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking  
2286 any other action against a User.

2287  
2288 11.3 Criminal Prosecution

2289  
2290 **[Note: To the extent State law authorizes a municipality to prosecute violations of local ordinances as a crime**  
2291 **under State law, the municipality should include the following provision in its local ordinance.]**  
2292

2293 A. A User who willfully or negligently violates any provision of this ordinance, an  
2294 individual wastewater discharge permit, [or a general permit {optional}] or order issued  
2295 hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be  
2296 guilty of a misdemeanor, punishable by a fine of not more than [insert maximum fine  
2297 allowed under State law] per violation, per day, or imprisonment for not more than  
2298 [\_\_\_\_\_ (\_\_\_\_)] years, or both.  
2299

2300 B. A User who willfully or negligently introduces any substance into the POTW which  
2301 causes personal injury or property damage shall, upon conviction, be guilty of a  
2302 [misdemeanor] and be subject to a penalty of at least [insert maximum fine allowable  
2303 under State law], or be subject to imprisonment for not more than [\_\_\_\_\_ (\_\_\_\_)] years,  
2304 or both. This penalty shall be in addition to any other cause of action for personal injury  
2305 or property damage available under State law.  
2306

2307 C. A User who knowingly makes any false statements, representations, or certifications  
2308 in any application, record, report, plan, or other documentation filed, or required to be  
2309 maintained, pursuant to this ordinance, individual wastewater discharge permit, [or  
2310 general permit {optional}] or order issued hereunder, or who falsifies, tampers with, or  
2311 knowingly renders inaccurate any monitoring device or method required under this  
2312 ordinance shall, upon conviction, be punished by a fine of not more than [insert  
2313 maximum fine allowable under State law] per violation, per day, or imprisonment for not  
2314 more than [\_\_\_\_\_ (\_\_\_\_)] years, or both.  
2315

2316 D. In the event of a second conviction, a User shall be punished by a fine of not more  
2317 than [insert maximum fine allowable under State law] per violation, per day, or  
2318 imprisonment for not more than [\_\_\_\_\_ (\_\_\_\_)] years, or both.  
2319

2320 11.4 Remedies Nonexclusive

2321  
2322 The remedies provided for in this ordinance are not exclusive. [The Superintendent] may take  
2323 any, all, or any combination of these actions against a noncompliant User. Enforcement of  
2324 pretreatment violations will generally be in accordance with [the City's] enforcement response  
2325 plan. However, [the Superintendent] may take other action against any User when the  
2326 circumstances warrant. Further, [the Superintendent] is empowered to take more than one  
2327 enforcement action against any noncompliant User.  
2328

2329 SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

2330

2331 12.1 Penalties for Late Reports {Optional}

2332

2333 A penalty of \$[xx] shall be assessed to any User for each day that a report required by this  
2334 ordinance, a permit or order issued hereunder is late, beginning five days after the date the report  
2335 is due [higher penalties may also be assessed where reports are more than 30-45 days late].  
2336 Actions taken by [the Superintendent] to collect late reporting penalties shall not limit [the  
2337 Superintendent's] authority to initiate other enforcement actions that may include penalties for  
2338 late reporting violations.

2339

2340 12.2 Performance Bonds {Optional}

2341

2342 [The Superintendent] may decline to issue or reissue an individual wastewater discharge permit  
2343 [or a general permit {optional}] to any User who has failed to comply with any provision of this  
2344 ordinance, a previous individual wastewater discharge permit, [or a previous general permit  
2345 {optional}] or order issued hereunder, or any other Pretreatment Standard or Requirement, unless  
2346 such User first files a satisfactory bond, payable to [the City], in a sum not to exceed a value  
2347 determined by [the Superintendent] to be necessary to achieve consistent compliance.

2348

2349 12.3 Liability Insurance {Optional}

2350

2351 [The Superintendent] may decline to issue or reissue an individual wastewater discharge [or a  
2352 general permit {optional}] to any User who has failed to comply with any provision of this  
2353 ordinance, a previous individual wastewater discharge permit, [or a previous general permit  
2354 {optional}] or order issued hereunder, or any other Pretreatment Standard or Requirement, unless  
2355 the User first submits proof that it has obtained financial assurances sufficient to restore or repair  
2356 damage to the POTW caused by its discharge.

2357

2358 12.4 Payment of Outstanding Fees and Penalties {Optional}

2359

2360 [The Superintendent] may decline to issue or reissue an individual wastewater discharge permit  
2361 [or a general permit {optional}] to any User who has failed to pay any outstanding fees, fines or  
2362 penalties incurred as a result of any provision of this ordinance, a previous individual wastewater  
2363 discharge permit, [or a previous general permit {optional}] or order issued hereunder.

2364

2365 12.5 Water Supply Severance {Optional}

2366

2367 Whenever a User has violated or continues to violate any provision of this ordinance, an  
2368 individual wastewater discharge permit, [a general permit, {optional}] or order issued hereunder,  
2369 or any other Pretreatment Standard or Requirement, water service to the User may be severed.  
2370 Service will recommence, at the User's expense, only after the User has satisfactorily  
2371 demonstrated its ability to comply.

2372

2373 12.6 Public Nuisances {Optional}

2374  
2375 A violation of any provision of this ordinance, an individual wastewater discharge permit, [a  
2376 general permit, {optional}] or order issued hereunder, or any other Pretreatment Standard or  
2377 Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by  
2378 [the Superintendent]. Any person(s) creating a public nuisance shall be subject to the provisions  
2379 of [the City Code] [insert proper citation] governing such nuisances, including reimbursing [the  
2380 City] for any costs incurred in removing, abating, or remedying said nuisance.

2381  
2382 12.7 Informant Rewards {Optional}

2383  
2384 [The Superintendent] may pay up to [\_\_\_\_\_ dollars (\$\_\_\_\_)] for information leading to the  
2385 discovery of noncompliance by a User. In the event that the information provided results in a  
2386 civil penalty [or an administrative fine] levied against the User, [the Superintendent] may  
2387 disperse up to [\_\_\_\_\_ percent (\_\_\_\_%)] of the collected fine or penalty to the informant.  
2388 However, a single reward payment may not exceed [\_\_\_\_\_ dollars (\$\_\_\_\_)].

2389  
2390 12.8 Contractor Listing {Optional}

2391  
2392 Users which have not achieved compliance with applicable Pretreatment Standards and  
2393 Requirements are not eligible to receive a contractual award for the sale of goods or services to  
2394 [the City]. Existing contracts for the sale of goods or services to [the City] held by a User found  
2395 to be in Significant Noncompliance with Pretreatment Standards or Requirements may be  
2396 terminated at the discretion of [the Superintendent].

2397  
2398 SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

2399  
2400 [Note: Although Federal law allows the affirmative defenses set out in this Section, some Approved States do  
2401 not allow for one or more of the affirmative defenses listed below.]

2402  
2403 13.1 Upset

2404  
2405 A. For the purposes of this Section, upset means an exceptional incident in which there is  
2406 unintentional and temporary noncompliance with categorical Pretreatment Standards  
2407 because of factors beyond the reasonable control of the User. An upset does not include  
2408 noncompliance to the extent caused by operational error, improperly designed treatment  
2409 facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or  
2410 improper operation.

2411  
2412 B. An upset shall constitute an affirmative defense to an action brought for  
2413 noncompliance with categorical Pretreatment Standards if the requirements of paragraph  
2414 (C), below, are met.

2415  
2416 C. A User who wishes to establish the affirmative defense of upset shall demonstrate,  
2417 through properly signed, contemporaneous operating logs, or other relevant evidence  
2418 that:

2419

- 2420 (1) An upset occurred and the User can identify the cause(s) of the upset;  
2421  
2422 (2) The facility was at the time being operated in a prudent and workman-like  
2423 manner and in compliance with applicable operation and maintenance procedures;  
2424 and  
2425  
2426 (3) The User has submitted the following information to [the Superintendent]  
2427 within twenty-four (24) hours of becoming aware of the upset [if this information  
2428 is provided orally, a written submission must be provided within five (5) days]:  
2429  
2430 (a) A description of the indirect discharge and cause of noncompliance;  
2431  
2432 (b) The period of noncompliance, including exact dates and times or, if not  
2433 corrected, the anticipated time the noncompliance is expected to continue; and  
2434  
2435 (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence  
2436 of the noncompliance.  
2437  
2438 D. In any enforcement proceeding, the User seeking to establish the occurrence of an  
2439 upset shall have the burden of proof.  
2440  
2441 E. Users shall have the opportunity for a judicial determination on any claim of upset  
2442 only in an enforcement action brought for noncompliance with categorical Pretreatment  
2443 Standards.  
2444  
2445 F. Users shall control production of all discharges to the extent necessary to maintain  
2446 compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its  
2447 treatment facility until the facility is restored or an alternative method of treatment is  
2448 provided. This requirement applies in the situation where, among other things, the  
2449 primary source of power of the treatment facility is reduced, lost, or fails.  
2450

### 2451 13.2 Prohibited Discharge Standards

2452  
2453 A User shall have an affirmative defense to an enforcement action brought against it for  
2454 noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific  
2455 prohibitions in Sections 2.1(B)(3) through [(\_\_)] of this ordinance if it can prove that it did not  
2456 know, or have reason to know, that its discharge, alone or in conjunction with discharges from  
2457 other sources, would cause Pass Through or Interference and that either:

- 2458  
2459 A. A Local Limit exists for each pollutant discharged and the User was in compliance  
2460 with each limit directly prior to, and during, the Pass Through or Interference; or  
2461  
2462 B. No Local Limit exists, but the discharge did not change substantially in nature or  
2463 constituents from the User's prior discharge when [the City] was regularly in compliance  
2464 with its NPDES permit, and in the case of Interference, was in compliance with  
2465 applicable sludge use or disposal requirements.

2466  
2467 [Note: The references in Section 13.2 should refer only to specific prohibitions actually listed in the  
2468 ordinance. Also note that, pursuant to 40 CFR 403.5(a)(2), the affirmative defense outlined in Section 13.2  
2469 cannot apply to the specific prohibitions in Sections 2.1B(1) and (2), and (8).]  
2470

2471 13.3 Bypass

2472  
2473 A. For the purposes of this Section,  
2474

2475 (1) Bypass means the intentional diversion of wastestreams from any portion of a  
2476 User's treatment facility.  
2477

2478 (2) Severe property damage means substantial physical damage to property,  
2479 damage to the treatment facilities which causes them to become inoperable, or  
2480 substantial and permanent loss of natural resources which can reasonably be  
2481 expected to occur in the absence of a bypass. Severe property damage does not  
2482 mean economic loss caused by delays in production.  
2483

2484 B. A User may allow any bypass to occur which does not cause Pretreatment Standards  
2485 or Requirements to be violated, but only if it also is for essential maintenance to assure  
2486 efficient operation. These bypasses are not subject to the provision of paragraphs (C) and  
2487 (D) of this Section.  
2488

2489 C. Bypass Notifications

2490  
2491 (1) If a User knows in advance of the need for a bypass, it shall submit prior  
2492 notice to [the Superintendent], at least ten (10) days before the date of the bypass,  
2493 if possible.  
2494

2495 (2) A User shall submit oral notice to [the Superintendent] of an unanticipated  
2496 bypass that exceeds applicable Pretreatment Standards within twenty-four (24)  
2497 hours from the time it becomes aware of the bypass. A written submission shall  
2498 also be provided within five (5) days of the time the User becomes aware of the  
2499 bypass. The written submission shall contain a description of the bypass and its  
2500 cause; the duration of the bypass, including exact dates and times, and, if the  
2501 bypass has not been corrected, the anticipated time it is expected to continue; and  
2502 steps taken or planned to reduce, eliminate, and prevent reoccurrence of the  
2503 bypass. [The Superintendent] may waive the written report on a case-by-case  
2504 basis if the oral report has been received within twenty-four (24) hours.  
2505

2506 D. Bypass

2507  
2508 (1) Bypass is prohibited, and [the Superintendent] may take an enforcement action  
2509 against a User for a bypass, unless

2510 (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe  
2511 property damage;  
2512

- 2513 (b) There were no feasible alternatives to the bypass, such as the use of auxiliary  
2514 treatment facilities, retention of untreated wastes, or maintenance during  
2515 normal periods of equipment downtime. This condition is not satisfied if  
2516 adequate back-up equipment should have been installed in the exercise of  
2517 reasonable engineering judgment to prevent a bypass which occurred during  
2518 normal periods of equipment downtime or preventive maintenance; and  
2519 (c) The User submitted notices as required under paragraph (C) of this section.

2520  
2521 (2) [The Superintendent] may approve an anticipated bypass, after considering its  
2522 adverse effects, if [the Superintendent] determines that it will meet the three  
2523 conditions listed in paragraph (D)(1) of this Section.  
2524

2525  
2526 SECTION 14—WASTEWATER TREATMENT RATES - [RESERVED]  
2527

2528 SECTION 15—MISCELLANEOUS PROVISIONS {Optional}  
2529

2530 15.1 Pretreatment Charges and Fees {Optional}  
2531

2532 [The City] may adopt reasonable fees for reimbursement of costs of setting up and operating [the  
2533 City's] Pretreatment Program, which may include:  
2534

- 2535 A. Fees for wastewater discharge permit applications including the cost of processing  
2536 such applications;  
2537  
2538 B. Fees for monitoring, inspection, and surveillance procedures including the cost of  
2539 collection and analyzing a User's discharge, and reviewing monitoring reports and  
2540 certification statements submitted by Users;  
2541 C. Fees for reviewing and responding to accidental discharge procedures and  
2542 construction;  
2543 D. Fees for filing appeals;  
2544 E. Fees to recover administrative and legal costs (not included in Section 15.1 B)  
2545 associated with the enforcement activity taken by the [Superintendent] to address IU  
2546 noncompliance; and  
2547  
2548 F. Other fees as [the City] may deem necessary to carry out the requirements contained  
2549 herein. These fees relate solely to the matters covered by this ordinance and are  
2550 separate from all other fees, fines, and penalties chargeable by [the City].  
2551

2552 15.2 Severability {Optional}  
2553

2554 If any provision of this ordinance is invalidated by any court of competent jurisdiction, the  
2555 remaining provisions shall not be affected and shall continue in full force and effect.  
2556

2557 SECTION 16—EFFECTIVE DATE

2558

2559 This ordinance shall be in full force and effect immediately following its passage, approval, and  
2560 publication, as provided by law.

2561