

Ontwa Township Regional Sewer District

Industrial Sewer Use Ordinance

April 2005

Prepared By:



**ONTWA TOWNSHIP REGIONAL SEWER
DISTRICT**

Industrial

SEWER USE ORDINANCE

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**Ontwa Township Regional Sewer District
Edwardsburg, Michigan 49112**

ORDINANCE NO. 4-11-05

SEWER USE ORDINANCE

SECTION I - GENERAL PROVISIONS

1. Purpose and policy.

(a) This Ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the District and enables the District to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

(b) The objectives of this Ordinance are:

(1) To prevent the introduction of pollutants into the District wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the District wastewater system which will pass through the system, inadequately treated, into any wastes of the state or otherwise be incompatible with the system;

(3) To promote reuse and recycling of industrial wastewater and sludge from the District system;

(4) To protect both District personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the District wastewater system; and

(6) To ensure that the District complies with its National Pollution Discharge Elimination System (NPDES) or nondischarge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the District wastewater system is subject.

(c) This Ordinance provides for the regulation of direct and indirect contributors to the District wastewater system, through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(d) This Ordinance shall apply to all users of the District's wastewater. Except as otherwise provided herein, the POTW director shall administer, implement and enforce the provisions of this Ordinance. Any powers granted to or imposed upon the POTW director may be delegated to a designee of the director. By discharging wastewater into the District wastewater system, industrial users agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions or orders issued hereunder.

2. Definitions and abbreviations.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

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

Approval authority. The director of the Indiana Department of Environmental Management (IDEM) or his designee.

Authorized representative of the industrial user.

(1) If the industrial user is a corporation, authorized representative shall mean:

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

b. The manager of one or more manufacturing, production or operation facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

(3) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee.

(4) The individuals described in subsections (1)--(3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the District.

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

Building sewer. A sewer conveying wastewater from the premises of a user to the POTW.

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

Categorical standards. See national categorical pretreatment standards or pretreatment standard.

District Manager. Official of Ontwa Township

Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

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

Holding tank waste. Any waste from holding tanks, including, but not limited to, such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Indirect discharge or discharge. The discharge or the introduction of any substance(s) from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user or user. Any person who contributes, causes or permits the contribution of wastewater into the District's POTW.

Interference. The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use or disposal which causes or contributes to a violation of any requirement of the POTW's NPDES or nondischarge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. § 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

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

National categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405--471.

National Prohibitive Discharge Standard or prohibitive discharge standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section Section II -1 of this Ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

New source.

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

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

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

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

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

(3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

- a. Begun or caused to begin as part of a continuous on-site construction program:
 1. Any placement, assembly or installation of facilities or equipment; or
 2. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment.

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

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

National Pollution Discharge Elimination System or NPDES permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342), or pursuant to the IDEM.

Nondischarge permit. A disposal system permit issued by the IDEM.

Pass through. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or nondischarge permit, or a downstream water quality standard.

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

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].

POTW director. The District engineer.

POTW treatment plant. That portion of the POTW designed to provide treatment to wastewater.

Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except by diluting the concentration of the pollutants, unless allowed by an applicable pretreatment standard.

Pretreatment program. The program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the District in compliance with 40 CFR 403.8 and approved by the approval authority in accordance with 40 CFR 403.11.

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

Pretreatment standards. Prohibited discharge standards, categorical standards and local limits.

Process wastewater flow. That portion of the facility discharge that is attributable to any water which, during research, manufacturing or processing, comes in direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

Publicly owned treatment works (POTW) City of Elkhart or District wastewater system Ontwa Township. A treatment works as defined by Section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the District. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this Ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the District who are, by contract or agreement with the District, or in any other way, users of the District's POTW.

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

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

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

Significant industrial user. Any industrial user of the District wastewater system who:

- (1) Has an average daily process wastewater flow of 25,000 gallons or more;
- (2) Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;
- (3) Is required to meet a national categorical pretreatment standard; or
- (4) Is found by the District, the Indiana Department of Environmental Management or the U.S. Environmental Protection agency (EPA) to have the potential for adverse impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

Significant noncompliance or reportable noncompliance. A status of noncompliance defined as follows:

- (1) Violations of wastewater discharge limits.
 - a. *Chronic violations.* Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.
 - b. *Technical review criteria (TRC) violations.* Thirty-three percent or more of the measurements are more than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:

For conventional pollutants:

BOD, TSS, fats, oil and grease; TRC=1.4

For all other pollutants (except pH); TRC=1.2

c. Any other violation(s) of an effluent limit (average or daily maximum) that the POTW director believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.

d. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(2) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction and attaining final compliance by 90 days or more after the schedule date.

(3) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports and periodic compliance reports within 30 days from the due date.

(4) Failure to accurately report noncompliance.

(5) Any other violation(s) which POTW director determines will adversely affect the operation or implementation of the local pretreatment program.

Slug load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section Section II -1 of this Ordinance.

Standard industrial classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the executive office of the president, office of management and budget, 1987, as amended from time to time.

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

Superintendent. The person designated by the District to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this Ordinance, or his duly authorized representative.

Suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by laboratory filtering.

Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

Wastewater permit. As set forth in section Section IV -2 of this Ordinance.

Waters of the state. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof. This Ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa. Shall is mandatory; and may is permissive. The use of the singular shall be

construed to include the plural and the plural shall include the singular as indicated by the context of its uses.

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

- (1) BOD - Biochemical Oxygen Demand
- (2) CFR - Code of Federal Regulations
- (3) COD - Chemical Oxygen Demand
- (4) EPA - Environmental Protection Agency
- (5) gpd - Gallons per day
- (6) IPP - Industrial pretreatment program
- (7) l - Liter
- (8) mg - Milligrams
- (9) mg/l - Milligrams per liter
- (10) I.G.S. - Indiana General Statutes
- (11) NPDS - National Pollution Discharge Elimination System
- (12) O & M - Operation and maintenance
- (13) POTW - Publicly-owned treatment works
- (14) RCRA - Resource Conservation and Recovery Act
- (15) SIC - Standard industrial classification
- (16) SOP - Standard operating procedure
- (17) SWDA - Solid Waste Disposal Act
- (18) TSS - Total suspended solids
- (19) TKN - Total Kjeldahl Nitrogen
- (20) U.S.C. - United States Code.

SECTION II. SEWER USE REQUIREMENTS

1. Prohibited discharge standards.

(a) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state or local pretreatment standards or requirements.

(b) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
- (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference.
- (3) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass-through.

- (4) Any wastewater having a pH less than 5.0 or more than 9.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment, unless permitted to do so (above 9.5 only).
 - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (e.g. BOD) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (6) Any wastewater having a temperature greater than 150 degrees Fahrenheit (66 degrees Celsius), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature of the wastewater stream at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
 - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW director in accordance with section Section II -9 of this Ordinance.
 - (9) Any noxious or malodorous liquids, gases or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (c) *Waste constituents of concern.* The discharge of the following constituents, at levels which cause pass-through or interference at the POTW, may be restricted as necessary by the POTW director. A constituent may be restricted under this section if the POTW director reasonably believes, based upon reliable scientific information, that the discharge of the constituent will result in pass-through or interference.
- (1) Any substances which may cause the POTW's effluent or any other product of the POTW such as residues, sludge or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clear Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used.
 - (2) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
 - (3) Any wastewater containing any radioactive wastes or isotopes, except those in compliance with applicable state or federal regulations.
 - (4) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater.
 - (5) Fats, oils or greases of animal or vegetable origin in concentrations greater than 100 mg/l.
 - (6) Any sludge, screenings or other residues from the pretreatment of industrial wastes.
 - (7) Any medical wastes.

- (8) Any material containing ammonia, ammonia salts or other chelating agents which will produce metallic complexes that interfere with the POTW.
- (9) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer.
- (10) Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances.
- (11) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (12) Recognizable portions of the human or animal anatomy.
- (13) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the District wastewater system.
- ~~(14) Any wastewater containing mercury in concentrations greater than 142 ng/l as measured by EPA Test Method 1631 and sampled by EPA Method 1669.~~
- (d) *[Discharge to the wastewater system.]* Pollutants, substances, wastewater or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the District wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system if a pretreatment facility is required by the wastewater discharge permit.
- (e) *[Contributing to the POTW.]* When the POTW director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the POTW director shall:
 - (1) Advise the user(s) of the potential impact of the contribution on the POTW; and
 - (2) Take appropriate actions in accordance with Section IV for such user to protect the POTW from interference or pass-through.

2. National categorical pretreatment standards.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405--471 and incorporated herein.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.5(e).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

3. Industrial waste survey and local limits.

(a) An industrial waste survey is required of all new industrial users . The industrial waste survey shall address, at a minimum, the following parameters: BOD, TSS, TKN, arsenic, cadmium, copper, cyanide, lead, mercury, nickel, oil and grease (FOG), silver, total chromium and zinc.

(b) Industrial waste survey information will be used to develop user-specific local limits when necessary to insure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. Such user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW director may impose mass limits in addition to, or in place of concentration-based limits.

4. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this Ordinance.

5. Right of revision.

The District reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in section 26-81 of this Ordinance, or the general and specific prohibitions in section Section II -1 of this Ordinance, as is allowed by 40 CFR 403.4.

6. Dilution.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the District or state.

7. Pretreatment of wastewater.

(a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this Ordinance and wastewater permits issued under section Section IV -2 of this Ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits and the prohibitions set out in section Section II -1 of this Ordinance within the time limitations as specified by EPA, the state or the POTW director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the District for review, and shall be approved by the POTW director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the District under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW director prior to the user's initiation of the changes.

(b) *Additional pretreatment measures.* The POTW director may require additional measures described below when necessary to ensure compliance with this Ordinance and waste water permits issued under section Section IV -2 of this Ordinance.

(1) The POTW director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Ordinance.

(2) The POTW director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil and sand interceptors may be required when, in the opinion of the POTW director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances that are not water soluble may be required to install and maintain an approved combustible gas detection meter. If the concentration of water soluble substances is great enough to be combustible, the user may be required to install and maintain an approved combustible gas detection meter.

(c) *Pretreatment projects.* Any pretreatment projects submitted and accepted, prior to this Ordinance becoming effective, shall be considered in full force and not requiring modification to meet differing requirements of this Ordinance, unless required to meet more stringent effluent limitations imposed by a change in the permit. Any pretreatment project submitted, but not approved prior to this Ordinance becoming effective shall not require additional review or modification before approval in order to meet the requirements of this Ordinance.

8. Accidental discharge/slug control plans.

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

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW director of any accidental or slug discharge, as required by section Section V-6 of this Ordinance; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for

containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

9. Hauled wastewater.

In general, hauled wastewater is discouraged. However, under the direction outlined below, the POTW director may allow hauled wastewater to be introduced to the POTW.

(1) Septic tank waste may not be introduced into the POTW except in an emergency situation that would require the approval of the POTW and District.. Such waste shall not violate Section II of this Ordinance or any other requirements established by the District. The POTW and District shall require septic tank waste haulers to obtain wastewater discharge permits.

(2) The POTW director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.

(3) Industrial waste haulers may discharge loads only at locations designated by the POTW and the District. No load may be discharged without prior consent of the POTW and District. The POTW and District may collect samples of each hauled load to ensure compliance with applicable standards. The POTW and District may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

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

SECTION III. FEES

The applicable charges or fees shall be set forth in the District's Sewage Rate Ordinance Ord. of 8-1-00 (Connection Rate) and Ord. of 8-2-00 (Sewer Use)

1. User charges.

A user charge shall be levied on all users, including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of wastewater into the POTW.

(1) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

(2) Each user shall pay its proportionate cost based on volume of flow.

(3) The District manager shall review annually the wastewater contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the District commissioners for adjustments in the schedule of charges and fees as necessary.

(4) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

(5) User charges shall be in accordance with the latest adopted edition of Appendix B - Surcharge Parameters.

2. Surcharges.

(a) All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the levels .

(b) The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharged above the levels listed above. The amount charged per pound of excess will be set forth in the schedule of charges and fees.

(1) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

a. Metered water consumption as shown in the records of meter readings maintained by the industry; or District

b. If required by the District or, at the individual dischargers option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the District. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the District.

c. Where any user procures all or part of his water supply from sources other than the city, the user shall install and maintain at his own expense a flow measuring device of a type approved by the District.

(2) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the District. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136. Upon request of the permittee, the collected sample shall be split and one-half of the sample shall be given to the permittee for analysis at the permittee's expense.

(3) The determination of the character and concentration of the constituents of the waste water discharge by the POTW director or his duly appointed representatives shall be binding as a basis for charges. Should a permittee suspect or have knowledge that the concentration of constituents do not reflect the true concentrations, the permittee may challenge the results within 15 days of receiving the results. Upon review of the challenge and a finding of inaccuracy, the District shall credit any excess charges made or bill for any shortage. In the case of excess billing, the District shall credit to the permittee's account, one-half the cost of substantiating the inaccuracy if the inaccuracy is greater than 25 percent above reported concentrations. The challenge of reported concentrations shall be in writing to the POTW director. After initial review of the challenge, the POTW director may elect to resample, accept the challenge based upon prior records, or defer the permittee to a hearing as outlined in section Section IV -2(8) of this Ordinance.

3. Pretreatment program administration charges.

The schedule of charges and fees adopted by the District may include charges and fees for:

(1) Reimbursement of costs of setting up and operating the pretreatment program.

(2) Monitoring and inspections.

(3) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications.

(4) Permitting.

(5) Other fees as the District may deem necessary to carry out the requirements of this Ordinance.

Any charges in fees pursuant to this section shall be submitted to the District Board for consideration and approval. All users shall be notified of such changes at least 30 days prior to submission to the Board.

4. Sewer credits.

The director may approve a sewer credit if a user produces evidence that more than ten percent of the total annual volume of water consumed is not returned to the District sewer system. Evidence produced must include 12 months of data. All meters used to determine such evidence shall be calibrated at least annually. A percentage sewer credit, in keeping with the amount not returned to the District sewer system, may be applied to the sewer account. The director may require the user to install appropriate meters and submit monthly readings to the director in order to receive a sewer credit. Updates to the original submission shall be submitted annually to the director to confirm the continued justification of a sewer credit. All user expenses for the justification shall be the responsibility of the user requesting the credit.

SECTION IV. WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

1. Wastewater dischargers.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the District. When requested by the POTW director, a user must submit information on the nature and characteristics of its wastewater within 45 days of the request. The POTW director is authorized to prepare a form for this purpose and may periodically require users to update this information as necessary to ensure compliance with this Ordinance.

2. Wastewater permits.

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW director be required to obtain a wastewater discharge permit for nonsignificant industrial users. This requirement is not intended to require existing permittees to obtain new permits but will allow the existing permits to be retained as issued by the city industrial pretreatment program, except for necessary changes due to the change of authority.

(1) *Significant industrial user determination.* All persons proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater shall request from the POTW director a

significant industrial user determination. If the POTW director determines that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(2) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the District an application in the form prescribed by the POTW director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in subsection Section IV -2 above. In support of the application, the user may be required to submit, in units and terms appropriate for evaluation, the following information as appropriate to this discharge:

- a. Name, address and location (if different from the address).
- b. Standard industrial classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated.
- c. Analytical data on wastewater constituents and characteristics, including, but not limited to, those mentioned in division 2 of this Ordinance, any of the priority pollutants (Section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.
- d. Time and duration of the indirect discharge.
- e. Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
- f. Site plans, floor plans, mechanical and plumbing plans and details or schematics to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation (the permittee shall maintain an accurate set of engineering drawings showing all mechanical and plumbing details that connect to the discharge sewer, either directly or indirectly).
- g. Description of activities, facilities and plant processes on the premises, including all materials which are or could be accidentally or intentionally discharged.
- h. Where known, the nature and concentration of any pollutants in the discharge which are limited by any District, state or federal pretreatment standards and a statement regarding whether or not the 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 for the user to meet applicable pretreatment standards.
- i. 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. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
 1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

2. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW director including, at 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. In no event shall more than nine months elapse between such progress reports to the POTW director.

j. Each product produced by type, amount, process or processes and rate of production.

k. Type and amount of raw materials processed (average and maximum per day).

l. Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

m. If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and as outlined in section Section V-1 of this Ordinance.

n. Any other information as may be deemed by the POTW director to be necessary to evaluate the permit application.

(3) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(4) *Application review and evaluation.* The POTW director will evaluate the data furnished by the user and may require additional information.

a. The POTW director is authorized to accept applications for the District and shall refer all applications to the POTW staff for review and evaluation.

b. Within 30 days of receipt the POTW director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(5) *Tentative determination and draft permit.*

a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

b. If the staff's tentative determination in subsection a. above is to issue the permit, the following additional determinations shall be made in writing:

1. Proposed discharge limitations for those pollutants proposed to be limited;

2. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

3. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

c. The staff shall organize the determinations made pursuant to subsection a. and b. above and the District's general permit conditions into a significant industrial user permit.

(6) *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:

a. A sketch and detailed description of the industrial facilities and pretreatment facilities, including the location of all points of discharge to the POTW and all established compliance monitoring points.

b. A quantitative description of the discharge described in the application which includes at least the following:

1. The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

2. The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and

3. The basis for the pretreatment limitations, including the documentation of any calculations in applying categorical pretreatment standards.

(7) *Final action on significant industrial user permit applications.*

a. The POTW director shall take final action on all applications not later than 90 days following receipt of a complete application.

b. The POTW director is authorized to:

1. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this Ordinance.

2. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements.

3. Modify any permit upon not less than 60 days notice and pursuant to section Section IV -2 of this Ordinance.

4. Revoke any permit.

5. Suspend a permit.

6. Deny a permit application when in the opinion of the POTW director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary..

(8) *Hearings.*

a. *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty or one issued a notification of violation or an administrative order shall have the right to an adjudicatory hearing before the Ontwa Township Regional Sewer Board upon making written demand, identifying the specific issues to be contested, to the POTW director within 30 days following receipt of the significant industrial user permit, civil penalty assessment or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The District Board shall make a final decision on the contested permit, penalty or order within 45 days of the receipt of the written demand for a hearing. The POTW director shall transmit a copy of the District manager's decision by registered or certified mail.

1. *New permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

2. *Renewed permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

b. *Reserved.*

c. *Official record.* When a final decision is issued under section Section IV -2(8)a. above, the director shall prepare an official record of the case that includes:

1. All notices, motions and other like pleadings.
2. A copy of all documentary evidence introduced.
3. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
4. A copy of the final decision of the District manager.

d. *Judicial review.* Any person against whom a final order or decision of the District manager is entered, pursuant to the hearing conducted under section Section IV -2(8)a. above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the superior court of the District along with a copy to the director. Within 30 days after receipt of the copy of the petition of judicial review, the director shall transmit to the reviewing court the original or a certified copy of the official record.

(9) *Permit modification.*

a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits, except as follows:

1. A single modification of any compliance schedule not in excess of four months.
2. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section Section IV -2(2) the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required for modifications.

(10) *Permit conditions.*

a. The POTW director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this Ordinance. Wastewater permits shall contain, but are not limited to, the following:

1. A statement of duration (in no case more than five years);
2. A statement of nontransferability.
3. Applicable effluent limits based on categorical standards or local limits or both;
4. Applicable monitoring, sampling, reporting, notification and record keeping requirements. These requirements shall include an identification of pollutants to be

monitored, sampling location, sampling frequency and sample type based on federal, state and local law;

5. Notification requirements for slug loads; and
6. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- b. In addition, permits may contain, but are not limited to, the following:
 1. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass or other measure of identified wastewater pollutants or properties.
 3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works.
 4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges.
 5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the District wastewater system.
 6. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 7. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 8. Specifications for monitoring programs which may include sampling location, frequency of sampling, number, types, and standards for tests and reporting schedules.
 9. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).
 10. Compliance schedules for meeting pretreatment standards and requirements.
 11. Requirements for submission of periodic self-monitoring or special notification reports.
 12. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section Section V-13 and affording the POTW director, or his representatives, access thereto.
 13. Requirements for prior notification and approval by the POTW director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
 14. Requirements for the prior notification and approval by the POTW director of any change in the manufacturing and/or pretreatment process used by the permittee that may affect the wastewater discharge and its compliance with a permit or this Ordinance.
 15. Requirements for immediate notification of excessive, accidental, or slug discharges or any discharge which could cause any problems to the system.
 16. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal state pretreatment standards, including those which become effective during the terms of the permit.
 17. Other conditions as deemed appropriate by the POTW director so as to ensure compliance with this Ordinance, and state and federal laws, rules and regulations.

(11) *Permits duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(12) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation.

(13) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section Section IV -2 a minimum of 180 days prior to the expiration of the existing permit. The District may allow users to certify that the permit application information submitted previously by the permittee to the District is accurate and representative of the user's current wastewater discharge in lieu of resubmitting information that is in the District's possession. This provision shall not be invoked for any permittee that has been proven to have violated this Ordinance or their discharge permit during the term of the permit that is to be renewed.

SECTION V. REPORTING REQUIREMENTS

1. Baseline monitoring reports.

(a) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW director a report which contains the information listed in paragraph (b), below. At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW director a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described in section Section V-1(a), shall submit the information set forth below.

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

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

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e). Flow measurement shall be in accordance with section Section III(b)(1) of this Ordinance.

(5) *Measurement of pollutants.*

- a. The categorical pretreatment standards applicable to each regulated process.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass where required by the standard or by the POTW director of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section Section V-10 of this Ordinance.
- c. Sampling must be performed in accordance with procedures set out in section Section V-13 of this Ordinance.

(6) *Certification.* A statement, certified by the user's authorized representative and certified by a qualified professional (i.e. professional engineer or state certified wastewater treatment plant operator of appropriate class), indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. 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 Section V-1 of this Ordinance.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section Section IV -2(3) of this Ordinance.

2. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by section Section V-1(b)(7) of this Ordinance:

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

(2) No increment referred to above shall exceed nine months;

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

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

3. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the

introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW director a report containing the information described in section Section V-1(b)(4)--(6) of this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section Section IV -2(3) of this Ordinance.

4. Periodic compliance reports.

(a) All significant industrial users shall, at a frequency determined by the POTW director, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by permit and the measured or estimated average and maximum daily flows for the reporting period in accordance with section Section III(1) of this Ordinance. Categorical users, where authorized by the categorical standard, may submit a certification stating that no regulated pollutant has been discharged since their last discharge monitoring data for the regulated pollutant. All periodic compliance reports must be signed and certified in accordance with section Section IV -2(3) of this Ordinance.

(b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently at the designated sampling point than required by the POTW director, using the procedures prescribed in section Section V-10 of this Ordinance, the results of this monitoring shall be included in the report.

5. Reports of changed conditions.

Each user must notify the POTW director of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

(1) The POTW director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section Section IV -2 of this Ordinance.

(2) The POTW director may issue a wastewater discharge permit under section Section IV -2 of this Ordinance or modify an existing wastewater discharge permit under section Section IV -2 of this Ordinance in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

6. Reports of potential problems.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five days following such discharge, the user shall, unless waived by the POTW director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

(c) A written notice, advising appropriate employees of the procedures required by paragraph (a) above, shall be readily available at all times. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

7. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW director as the POTW director may require.

8. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the POTW director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW director within 30 days after becoming aware of the violation. The user is not required to resample if the POTW director monitors at the user's facility at least once a month, or if the POTW director samples between the user's initial sampling and when the user receives the results of this sampling.

9. Notification of the discharge of hazardous waste.

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user:

- (1) An identification of the hazardous constituents contained in the wastes;
- (2) An estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month; and

(3) An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 26-150 of this Ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections Section V-1, 26-148 and 26-149 of this Ordinance.

(b) Discharges are exempt from the requirements of paragraph (a) above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW director, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued thereunder, or any applicable federal or state law.

10. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

11. Sample collection.

(a) Except as indicated in section (b) below, the user must collect wastewater samples required by permit or this Ordinance using flow or time proportional composite collection techniques as determined by the POTW director. In the event flow or time proportional sampling is infeasible, the POTW director may authorize the use of a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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

12. Timing.

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

13. Record keeping.

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance. Records, obtained pursuant to required monitoring activities, shall include the date, exact place, method and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. All records, pursuant to required monitoring or gathered independently, shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the District, or where the user has been specifically notified of a longer retention period by the POTW director.

SECTION VI. COMPLIANCE MONITORING

1. Monitoring facilities.

(a) The District requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement pursuant to section Section III(1), of the user's facility's sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the District may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the District's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the District. A longer period than 90 days may be allowed by the POTW director if the user demonstrates that 90 days is not sufficient for construction.

2. Inspection and sampling.

The District may inspect the facilities of any user to ascertain compliance with this Ordinance and the terms of the user's permit. Users shall allow the District, approval authority, and EPA or their representative ready access at all reasonable times to all parts

of the premises, related to wastewater discharge, for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. Ready access shall include all provisions of an approved Access SOP. The District, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the District, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW director's or his representatives, approval authority's or EPA's access, while in conformance with the Access SOP, to the user's premises shall be a violation of this Ordinance. Delays that are significantly longer than outlined in the Access SOP may constitute denial of access. In the event a user, for purposes of safety or security, needs to impose special requirements for access to its facility, the user shall submit an Access SOP. The Access SOP shall contain all accompaniment requirements, time constraints, orders, contacts, procedures and safety requirements that the District inspectors may need to gain access to the facility.

3. Search warrants.

If the POTW director, approval authority or EPA has been refused access to a building, structure or property or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the District designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW director or his representatives, approval authority or EPA may seek issuance of a administrative inspection warrant from the District magistrate.

SECTION VII. CONFIDENTIAL INFORMATION

1. Applying for confidential treatment status.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agency without restriction, unless the user requests confidential treatment of the information and data.

(b) A request that information be treated as confidential shall be made by the person submitting the information at the time the submittal is made, or in the case of information collected by the District during inspection, within 14 days after the information has been received by the District. Requests for confidential treatment of information must be in writing and specifically identify the information for which the confidential treatment is sought. Any request not meeting these requirements shall be invalid.

(c) A request for confidential treatment status may refer to an entire document being submitted or any portion thereof. If it refers to a portion, the request shall specifically indicate that portion to be treated as confidential and may be submitted separately to

facilitate identification and handling. If the confidential material is to be submitted separately, the information must be so noted in the other portion of the submittal.

If the user desires confidential treatment only until a certain date or until occurrence of a certain event, the request shall so state.

(d) "Effluent data" as defined at 40 CFR 2.302 will be recognized as confidential only to the degree it is so treated by that rule.

2. Acquiring confidential treatment status.

(a) The POTW director shall make a determination of whether the business information and trade secrets are entitled to confidential treatment status whenever he receives the appropriately timed request for confidential treatment status.

(b) Confidential information should be identified by each user in a general way at the time of application for a permit, upon submittal of an Access SOP or at the discretion of the user. Information so identified will be given safeguards from the time of receipt and until determined as not confidential treatment status information or the specified time period expires.

(c) Confidential treatment status shall be afforded to a user if:

(1) The user has submitted a valid request for confidential treatment status;

(2) The user has satisfactorily shown that it has taken measures itself to protect the confidentiality of the information or data;

(3) No statute or regulation specifically requires disclosure of such information or data; and

(4) The user provides satisfactory proof that disclosure of the information is likely to cause substantial harm to the user's competitive position; or if:

(5) Release of such information would divulge information, processes or methods of production entitled to protection as trade secrets.

(d) The POTW director shall notify the user of his/her determination of confidentiality status within 30 days of receipt of a request for confidential treatment status. To the extent that the POTW director rejects a user's claim, within ten days of receiving such notice, the user shall have the right to appeal the POTW director's decision in accordance with the procedures set forth in section Section IV -2(8) of this Ordinance. The POTW director shall continue to maintain confidential treatment status for such information until all appeals are completed.

3. Confidential treatment.

(a) If the POTW director determines that the information or data is entitled to confidential treatment status for the period requested, he shall maintain the information in confidence during that period.

(b) This rule is subject to the following exceptions:

(1) *Emergency situations.* If the POTW director finds that disclosure of information receiving confidential treatment status is essential to alleviate a situation posing an imminent and substantial danger to public health or safety, he may disclose the information to the local emergency response authorities as he finds necessary under the circumstances.

- (2) *Court-ordered disclosure.* The POTW director shall disclose any confidential information in any manner and to the extent ordered by a court of competent jurisdiction.
- (3) *User notification.* The POTW director shall notify the user of the disclosures above within 14 days of the disclosure if the user has not been a part of the proceedings

4. Contractors; assurance of confidentiality.

(a) No confidential status information shall be disclosed to, nor access to user's facility demanded for, contractors of the District pursuant to this Ordinance, unless the contract between the District and the contractor provides:

(1) That the contractor and contractor's employees shall use the information disclosed, or gathered from inspections, only for the purpose of carrying out the work required by the contract. The contractor and the contractor's employees shall refrain from disclosing the information to anyone other than the POTW director without prior written approval from the affected business or the District attorney for the District and shall return to the POTW director all copies of the information upon request by the POTW direction, whenever the information is no longer required by the contractor for the performance of the work required under the contract, or upon completion of the contract. Information known to be confidential shall not be given to anyone other than the POTW director who will distribute the information to the contractor as appropriate after a determination of confidential status.

(2) That the contractor shall obtain a written agreement to honor such terms of the contract from each of the contractor's employees who will have access to the information or inspections, before such employee is allowed access to the confidential information or facilities; and

(3) That the contractor acknowledges and agrees that the contract provisions concerning the use and disclosure of confidential status information are included for the benefit of, and shall be enforceable by both the District and the user submitting the confidential status information.

(b) For the purpose of this subsection, information requested of users directly by a contractor, as agent of the POTW director, shall be considered to be information supplied to the contractor by the POTW director.

5. Safeguarding of confidential status information; penalty for wrongful disclosure.

(a) Neither the POTW director nor any District employee, agent or contractor may disclose or use for private gain, any confidential status information which came into his possession by virtue of his official position, contract or employment.

(b) Each POTW and District employee, agent or contractor who has custody or possession of confidential status information shall take appropriate measures to properly safeguard such information and to protect against improper disclosure.

(c) Violation of paragraph (a) or (b) above, shall constitute grounds for dismissal, suspension, fine, contract termination, damages or other disciplinary action.

SECTION VIII. ENFORCEMENT

1. Administrative remedies.

(a) *Notification of violation.* Whenever the POTW director finds that any industrial user has violated or is violating this Ordinance, wastewater permit or any prohibition, limitation or requirements contained therein, or any other pretreatment requirement the POTW director may serve upon such a user a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation, analytical analysis documenting compliance, and a plan for the satisfactory correction thereof shall be submitted to the District by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) *Consent orders.* The POTW director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as a compliance order issued.

(c) *Show cause hearing.* The POTW director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this Ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty nor is any action or inaction taken by the POTW director under this section subject to an administrative appeal under section Section IV -2(8).

(d) *Compliance orders.* When the POTW director finds that a user violated or continues to violate any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the POTW director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, the POTW director may commence an action to revoke or suspend the user's permit, or take other immediate enforcement action authorized by this Ordinance to bring the user into compliance with this Ordinance or the user's permit. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may

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

(e) *Emergency suspensions.* The POTW director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, or causes the POW to violate any condition of its NPDES permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW director prior to the date of the above-described hearing.

(f) *Revocation of permit.* Any user who violates the following conditions of this Ordinance, or applicable state and federal regulations, is subject to having its permit revoked:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access, pursuant to Section 6 herein, to the user's premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of the permit.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause why the proposed action should not be taken.

2. Civil penalties.

(a) Any user who is found to have failed to comply with any provision of this Ordinance, or the orders, rules, regulations and permits issued hereunder, may be fined up to \$2,500.00 per day per violation.

(b) In determining the amount of the civil penalty, the POTW director shall consider the following:

- (1) The degree and extent of the harm to the natural resources, to the public health or to public or private property resulting from the violation.
- (2) The duration and gravity of the violation.
- (3) The effect on ground or surface water quantity or quality or on air quality.

- (4) The cost of rectifying the damage.
- (5) The amount of money saved by noncompliance.
- (6) Whether the violation was committed willfully or intentionally.
- (7) The prior record of the violator in complying or failing to comply with the pretreatment program.
- (8) The costs of enforcement to the District.
- (c) The District may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including, but not limited to, monitoring, sampling, analytical expenses and the cost of any actual damages incurred by the POTW.
- (d) Appeals of civil penalties assessed in accordance with this section shall be as provided in section Section IV -2(8).
- (e) Filing a suit for civil penalties shall not be a bar against or a prerequisite for taking any other action against a user.

3. Other available remedies.

The following remedies, in addition to those previously mentioned in this Ordinance, are available to the POTW director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (1) *Criminal violations.* The District attorney may, at the request of the District, prosecute noncompliant users who violate the provisions of the Ordinance. (Under state law, it is a crime to negligently violate any term, condition or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments, to knowingly and willfully violate any term, condition or requirement of a pretreatment permit or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments, to knowingly violate any term, condition or requirement of a pretreatment permit issued by local governments or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, and to falsify information.
- (2) *Injunctive relief.* Whenever a user is in violation of the provisions of this Ordinance or an order or permit issued hereunder, the POTW director, through the District attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.
- (3) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this Ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
- (4) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this Ordinance or of a permit or order issued hereunder, shall be subject to the remedies and sanctions afforded by law governing public nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying such nuisance,

4. Remedies nonexclusive.

The remedies provided for in this Ordinance are not exclusive. The POTW director may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the District

enforcement response plan. However, the POTW director may take other action against any user when the circumstances warrant. Further, the POTW director is empowered to take more than one enforcement action against any noncompliant user.

SECTION IX. SIGNIFICANT NONCOMPLIANCE WITH STANDARDS AND REQUIREMENTS

1. Annual publication of significant noncompliance.

At least annually, the POTW director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which are found to be in significant noncompliance (see definition "significant noncompliance" or "reportable noncompliance" in Section Section I-2), with applicable pretreatment standards and requirements, during the previous 12 months.

SECTION X. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

1. Upset.

(a) For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c) below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operation logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the POTW director within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the indirect discharge and cause of noncompliance;

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

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

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

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

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

2. Prohibited discharge standards defense.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section Section II -1(a) of this Ordinance or the specific prohibitions in sections Section II -1(b)(2), (3) and (5) through (7) of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

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

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

3. Bypass.

(a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.

(b) Bypass provisions.

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

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

(c) Bypass is prohibited, and the POTW director may taken an enforcement action against a user for a bypass, unless:

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

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods

of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

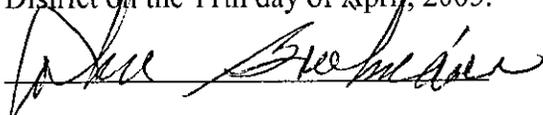
(3) The user submitted notices as required under paragraph (b) of this section.

SECTION XI. AMENDMENTS AND REVISIONS

The Ontwa Township Regional Sewer District of Cass County Michigan, reserves the right, by appropriate action, to amend, modify, delete, change or otherwise revise this ordinance as it may deem, from time to time, to be desirable and/or necessary.

This Ordinance shall be in full force and effect from and after its passage.

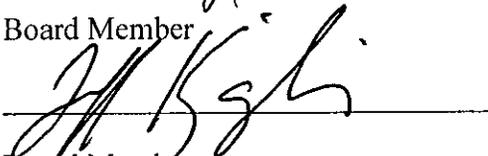
Passed and adopted by the Board of Directors of the Ontwa Township Regional Sewer District on the 11th day of April, 2005.



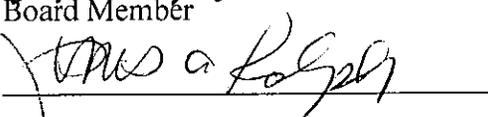
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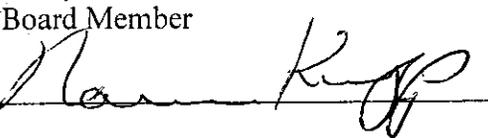
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